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John B. Hyman

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Ont. 20

1875



IMPERIAL STATUTES

John W. Gwynne
AFFECTING THE

PROVINCE OF ONTARIO;

AND CONSISTING CHIEFLY OF THOSE STATUTES WHICH
RELATE TO THE CONSTITUTION OF THE PROVINCE

AND THE

POLITICAL RIGHTS OF ITS INHABITANTS,

AND SUCH OTHER OF THE IMPERIAL ACTS WHICH HAVE BEEN
HERETOFORE PRINTED WITH THE STATUTES OF THE
LATE PROVINCE OF CANADA AND OF THE
DOMINION, AS AFFECT THIS PROVINCE.



Toronto:

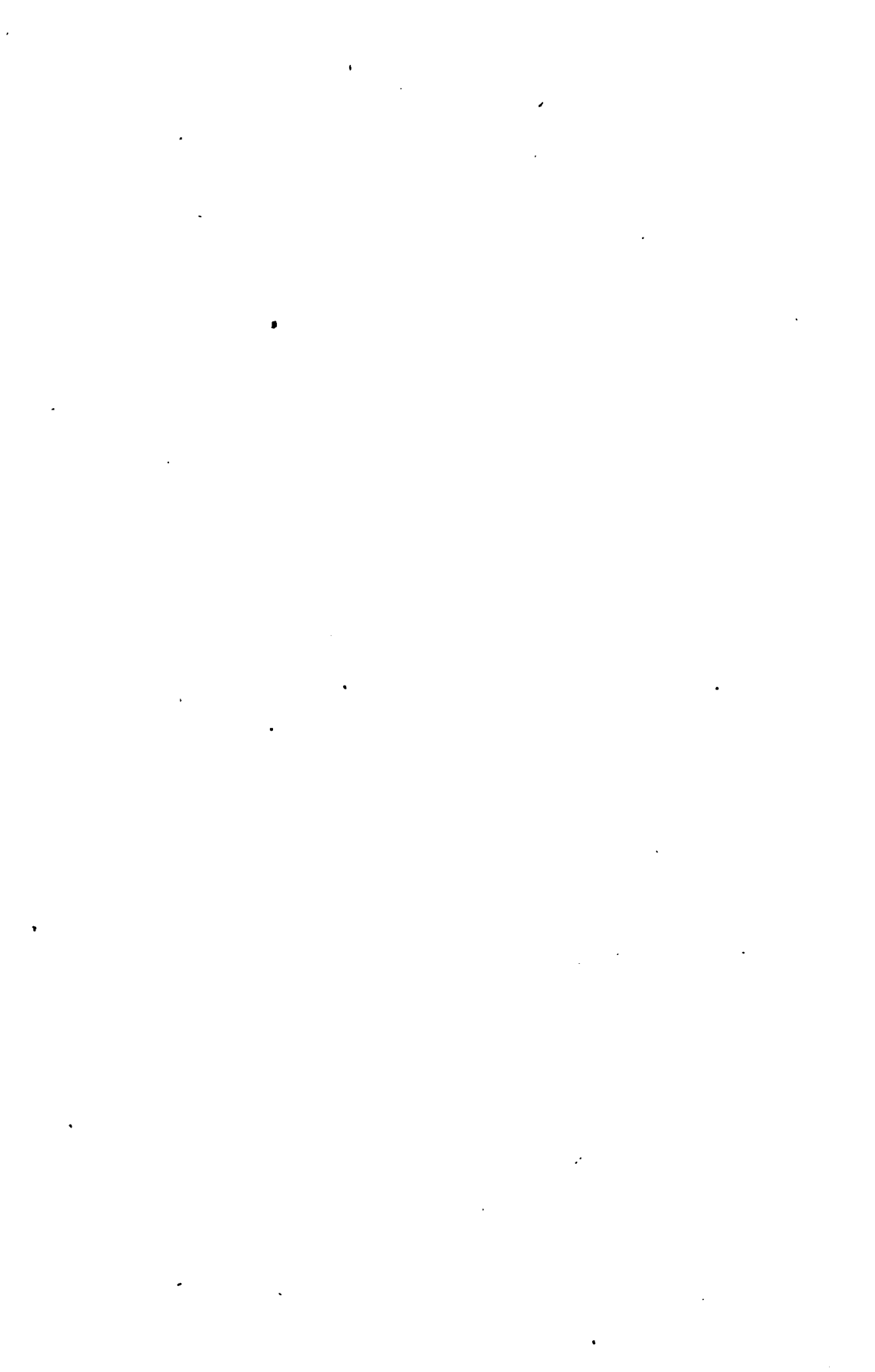
PRINTED BY JOHN NOTMAN,

LAW PRINTER TO THE QUEEN'S MOST EXCELLENT MAJESTY.

ANNO DOMINI 1875.



This collection of Imperial Statutes relating to Ontario has been made by G. H. WATSON and G. L. B. FRASER, Esqs., Barristers-at-Law, under the direction of a Committee of the Commissioners for the Consolidation and Revision of the Statutes affecting the Province of Ontario. The index has been prepared by MR. FRASER.



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5 GEO. 2, c. 7.—1732.

AN ACT for the more easy recovery of debts in His Majesty's Plantations and Colonies in America.

WHEREAS His Majesty's subjects trading to the British plantations in America lie under great difficulties, for want of more easy methods of proving, recovering, and levying of debts due to them, than are now used in some of the said plantations :

And whereas it will tend very much to the retrieving of the credit formerly given by the trading subjects of Great Britain to the natives and inhabitants of the said plantations, and to the advancing of the trade of this kingdom thither, if such inconveniences were remedied.

May it therefore please Your Majesty that it may be enacted, and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same,

That from and after the twenty-ninth day of September which shall be in the year of our Lord one thousand seven hundred and thirty-two, in any action or suit then depending, or thereafter to be brought in any court of law or equity in any of the said plantations, for or relating to any debt or account, wherein any person residing in Great Britain shall be a party, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing by affidavit or affidavits in writing upon oath, or in case the person making such affidavit be one of the people called Quakers, then upon his or her solemn affirmation, made before any mayor or other chief magistrate of the city, borough or town corporate in Great Britain, where or near to which the person making such affidavit or affirmation shall reside, and certified and transmitted under the common seal of such city, borough or town corporate, or the seal of the office of such mayor, or other chief magistrate, which oath and solemn affirmation every such mayor and chief magistrate shall be and is hereby authorized and empowered to administer ; and every affidavit or affirmation so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect

After Sept. 29, 1732, plantation debts may be proved in England on oath before a chief magistrate.

effect, as if the person or persons making the same upon oath or solemn affirmation as aforesaid, had appeared and sworn or affirmed the matters contained in such affidavit or affirmation *viva voce* in open court, or upon a commission issued for the examination of witnesses, or of any party in such action or suit respectively; Provided that in every such affidavit and affirmation there shall be expressed the addition of the party making such affidavit or affirmation, and the particular place of his or her abode.

Debts to his Majesty may be proved in the same manner.

2. And be it further enacted by the authority aforesaid, That in all suits now depending, or hereafter to be brought in any court of law or equity by or in behalf of His Majesty, His heirs and successors, in any of the said plantations, for or relating to any debt or account, that His Majesty, His heirs and successors, shall and may prove His and their debts and accounts, and examine His or their witness or witnesses by affidavit or affirmation in like manner as any subject or subjects is or are empowered or may do by this present Act.

Penalty on false oath or affirmation.

3. Provided always, and it is hereby further enacted, That if any person making such affidavit upon oath or solemn affirmation as aforesaid, shall be guilty of falsely and wilfully swearing or affirming any matter or thing in such affidavit or affirmation, which, if the same had been sworn upon an examination in the usual form, would have amounted to wilful and corrupt perjury, every person so offending, being thereof lawfully convicted, shall incur the same penalties and forfeitures as by the laws and statutes of this realm are provided against persons convicted of wilful and corrupt perjury.

(These three secs. are amended by the 15th and 17th secs. of Imp. Act 5 and 6 Wm. 4, c. 62. See post p. 3.)

Lands, houses, negroes, etc., in the plantations liable to satisfy debts.

4. And be it further enacted by the authority aforesaid, That from and after the said twenty-ninth day of September one thousand seven hundred and thirty-two, the houses, lands, negroes, and other hereditaments and real estates, situate or being within any of the said plantations belonging to any person indebted, shall be liable to and chargeable with all just debts, duties and demands of what nature or kind soever, owing by any such person to His Majesty, or any of his subjects, and shall and may be assets for the satisfaction thereof, in like manner as real estates are by the law of England liable to the satisfaction of debts due by bond or other specialty, and shall be subject to the like remedies, proceedings and process in any court of law or equity, in any of the said plantations respectively, for seizing, extending, selling or disposing of any such houses, lands, negroes and other hereditaments and real estates, towards the satisfaction of such debts, duties, and demands, and in like manner as personal

personal estates in any of the said plantations respectively are seized, extended, sold, or disposed of, for the satisfaction of debts.

(So much of this Act as relates to negroes is repealed by Imp. Act 37 Geo. 3, c. 19.)

5 & 6 Wm. 4, c. 62.—1835.

AN ACT to repeal an Act of the present Session of Parliament, intituled *An Act for the more effectual abolition of oaths and affirmations taken and made in various Departments of the State, and to substitute declarations in lieu thereof, and for the more entire suppression of voluntary and extra-judicial oaths and affidavits*, and to make other provisions for the abolition of unnecessary oaths.

(The following seem to be the only sections of this Act which now affect Ontario.)

15. AND WHEREAS an Act was passed in the fifth year of the reign of His late Majesty King George the Second, intituled, *An Act for the more easy recovery of debts in His Majesty's plantations and colonies in America*.

Declaration substituted for oaths and affidavits required by 5 Geo. 2, c. 7.

And whereas another Act was passed in the fifty-fourth year of the reign of His late Majesty King George the Third, intituled *An Act for the more easy recovery of debts in His Majesty's colony of New South Wales*;

And whereas it is expedient that in future a declaration shall be substituted in lieu of the affidavit on oath authorised and required by the said recited Acts;

Be it therefore enacted, That from and after the commencement of this Act, in any action or suit then depending, or thereafter to be brought or intended to be brought in any court of law or equity within any of the territories, plantations, colonies or dependencies abroad, being within any part of His Majesty's dominions, for or relating to any debt or account wherein any person residing in *Great Britain and Ireland* shall be a party or for or relating to

to any lands, tenements or hereditaments or other property situate, lying, and being in the said places respectively, it shall and may be lawful to and for the plaintiff or defendant, and also to and for any witness to be examined or made use of in such action or suit, to verify or prove any matter or thing relating thereto by solemn declaration or declarations in writing in the form in the Schedule hereunto annexed, made before any Justice of the Peace, Notary Public or other officer now by law authorised to administer an oath, and certified and transmitted under the signature and seal of any such Justice, Notary Public, duly admitted and practising or other officer; which declaration and every declaration relative to such matter or things aforesaid in any foreign kingdom or state, or to the voyage of any ship or vessel, every such Justice of the Peace, Notary Public or other officer shall be and is hereby authorized and empowered to administer and receive; and every declaration so made, certified and transmitted, shall in all such actions and suits be allowed to be of the same force and effect as if the person or persons making the same had appeared and sworn or affirmed the matters contained in such declaration *viva voce* in open court or upon a commission issued for the examination of witnesses or of any party in such action or suit respectively; Provided that in every such declaration there shall be expressed the addition of the party making such declaration and the particular place of his or her abode.

Debts on behalf of his Majesty to be proved by declaration.

17. And be it further enacted, That in all suits now depending or hereafter to be brought in any court of law or equity by or in behalf of His Majesty, His heirs and successors, in any of His said Majesty's territories, plantations, colonies, possessions or dependencies, for or relating to any debt or account, that His Majesty, His heirs and successors, shall and may prove his and their debts and accounts, and examine his and their witness or witnesses by declaration in like manner, as any subject and subjects is or are empowered or may do by this present Act.

SCHEDULE referred to by the foregoing Act.

I, A. B., do solemnly and sincerely declare that and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the year of the reign of His present Majesty intituled *An Act (here insert the title of this Act.)*

14 GEO.

14 GEO. 3, c. 83—1774.

AN ACT for making more effectual provision for the government of the Province of Quebec in North America.

WHEREAS his Majesty, by his royal proclamation bearing date the seventh day of October, in the third year of his reign, thought fit to declare the provisions which have been made in respect to certain countries, territories and islands in America, ceded to his Majesty by the definite treaty of peace concluded at Paris on the tenth day of February, one thousand seven hundred and sixty-three: And whereas by the arrangements made by the said royal proclamation, a very large extent of country, within which there were several colonies and settlements of the subjects of France, who claimed to remain therein under the faith of the said treaty, was left without any provision being made for the administration of civil government therein; and certain parts of the territory of Canada, where sedentary fisheries had been established and carried on by the subjects of France, inhabitants of the said Province of Canada, under grants and concessions from the government thereof, were annexed to the government of Newfoundland, and thereby subjected to regulations inconsistent with the nature of such fisheries: May it therefore please your Most Excellent Majesty that it may be enacted, and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

1. That all the territories, islands, and countries in North America, belonging to the Crown of Great Britain, bounded on the south by a line from the bay of Chaleurs, along the high lands which divide the rivers that empty themselves into the River Saint Lawrence from those which fall into the sea, to a point in forty-five degrees of northern latitude, on the eastern bank of the river Connecticut, keeping the same latitude directly west, through the lake Champlain, until, in the same latitude, it meets the river Saint Lawrence; from thence up the eastern bank of the said river to the lake Ontario; thence through the lake Ontario, and the river commonly called Niagara; and thence along by the eastern and south-eastern bank of lake Erie, following the said bank, until the same shall be intersected by the northern boundary, granted by the charter of the Province of Pennsylvania, in case the same shall be so intersected; and from thence along the said northern and western boundaries of the said Province, until the said western boundary strike the Ohio; but in case the

Certain territories belonging to Great Britain annexed to the Province of Quebec.

said

said bank of the said lake shall not be found to be so intersected, then following the said bank until it shall arrive at that point of the said bank which shall be nearest to the north-western angle of the said Province of Pennsylvania; and thence, by a right line, to the said north-western angle of the said Province; and thence along the western boundary of the said Province, until it strike the river Ohio; and along the bank of the said river, westward, to the banks of the Mississippi, and northward to the southern boundary of the territory granted to the merchants adventurers of England, trading to Hudson's Bay; and also all such territories, islands, and countries, which have, since the tenth of February, one thousand seven hundred and sixty-three, been made part of the Government of Newfoundland, be, and they are hereby, during His Majesty's pleasure, annexed to, and made part and parcel of the Province of Quebec, as created and established by the said royal proclamation of the seventh of October, one thousand seven hundred and sixty-three.

Boundaries of
any other
colonies not to
be affected.

2. Provided always, that nothing herein contained, relative to the boundary of the Province of Quebec, shall in any wise affect the boundaries of any other colony.

Not to make
void other
rights former-
ly granted.

3. Nothing in this Act contained shall extend, or be construed to extend, to make void, or to vary or alter any right, title, or possession, derived under any grant, conveyance, or otherwise howsoever, of or to any lands within the said Province, or the Provinces thereto adjoining; but that the same shall remain and be in force, and have effect, as if this Act had never been made.

Former provi-
sions for the
government of
the Province
to be null and
void after 1st
May, 1775.

4. And whereas the provisions made by the said proclamation, in respect to the civil government of the said Province of Quebec, and the powers and authorities given to the Governor and other civil officers of the said Province, by the grants and commissions issued in consequence thereof, have been found, upon experience, to be inapplicable to the state and circumstances of the said Province, the inhabitants whereof amounted, at the conquest, to above sixty-five thousand persons professing the religion of the church of Rome, and enjoying an established form of constitution and system of laws, by which their persons and property have been protected, governed and ordered, for a long series of years, from the first establishment of the said Province of Canada; be it therefore further enacted by the authority aforesaid, That the said proclamation, as far as the same relates to the said Province of Quebec, and the commission under the authority whereof the government of the said Province is at present administered, and all and every the ordinance and ordinances made by the Governor and Council of Quebec for the time being, relative to the civil government and administration of justice in the said Province, and all commissions to judges

judges and other officers thereof, be, and the same are hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five.

5. And, for the more perfect security and ease of the minds of the inhabitants of the said Province, it is hereby declared, That His Majesty's subjects, professing the religion of the church of Rome of and in the said Province of Quebec, may have, hold, and enjoy, the free exercise of the religion of the church of Rome, subject to the King's supremacy, declared and established by an Act, made in the first year of the reign of Queen Elizabeth, over all the dominions and countries which then did, or thereafter should belong, to the Imperial Crown of this realm; and that the clergy of the said church may hold, receive, and enjoy, their accustomed dues and rights, with respect to such persons only as shall profess the said religion.

Inhabitants of Quebec may profess the Roman Catholic religion subject to the King's supremacy as declared by the Act 1st Elizabeth.

6. Provided nevertheless, that it shall be lawful for His Majesty, His heirs or successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, and for the maintenance and support of a Protestant clergy within the said Province, as He or they shall, from time to time, think necessary and expedient.

Provision may be made for the support of a Protestant clergy within the Province.

(This does not appear to have been expressly repealed, but is not acted upon, and is perhaps inconsistent with later enactments.)

7. Provided always, that no person, professing the religion of the church of Rome, and residing in the said Province, shall be obliged to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth, or any other oaths substituted by any other Act in the place thereof; but that every such person who, by the said statute, is required to take the oath therein mentioned, shall be obliged, and is hereby required, to take and subscribe the following oath before the Governor, or such other person in such court of record as His Majesty shall appoint, who are hereby authorized to administer the same; *videlicet*:

No person professing the Roman Catholic religion obliged to take the oath 1st Elizabeth, but to take the following oath.

"I, A. B., do sincerely promise and swear, That I will be faithful, and bear true allegiance to His Majesty *King George*, and Him will defend to the utmost of my power, against all traitorous conspiracies and attempts whatsoever, which shall be made against His person, crown and dignity; and I will do my utmost endeavor to disclose and make known to His Majesty, His heirs and successors, all treasons, and traitorous conspiracies, and attempts, which I shall know to be against Him, or any of them; and all this I do swear without any equivocation, mental evasion, or secret reservation,

“vation, and renouncing all pardons and dispensations from
“any power or persons whomsoever to the contrary. So help
“me God.”

(See C. S. C., c. 12, s. 3, and Dom. Act 31 Vic., c. 36, s 3.)

And every such person, who shall neglect or refuse to take the said oath before mentioned, shall incur and be liable to the same penalties, forfeitures, disabilities and incapacities, as he would have incurred and been liable to for neglecting or refusing to take the oath required by the said statute passed in the first year of the reign of Queen Elizabeth.

His Majesty's
Canadian sub-
jects (religious
orders except-
ed) may hold
their property
&c.

In civil mat-
ters resort to
be had to laws
of Canada.

8. His Majesty's Canadian subjects, within the Province of Quebec, the religious orders and communities only excepted, may also hold and enjoy their property and possessions, together with all customs and usages relative thereto, and all other their civil rights, in as large, ample, and beneficial a manner, as if the said proclamation, commissions, ordinances and other Acts and instruments had not been made, and as may consist with their allegiance to His Majesty, and subjection to the Crown and Parliament of Great Britain; and in all matters of controversy, relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same; and all causes that shall hereafter be instituted in any of the courts of justice, to be appointed within and for the said Province, by His Majesty, His heirs and successors, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied or altered by any ordinances that shall, from time to time, be passed in the said Province by the Governor, Lieutenant Governor, or Commander in Chief, for the time being, by and with the advice and consent of the Legislative Council of the same, to be appointed in manner hereinafter mentioned.

(But see Prov. Stat. U. C. 32, Geo. 3, c. 1, (Rev. Stat. Ont. c. 38), which repeals this sec. so far as it introduces the law of Canada into U. C. and provides that in U. C. in all matters relative to property and civil rights, resort shall be had to the laws of England.)

Exception as
to lands in free
and common
socage,

9. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to any lands that have been granted by His Majesty, or shall hereafter be granted by His Majesty, His heirs and successors, to be holden in free and common socage.

Owners of
lands may
alienate the
same by will.

10. Provided also that it shall and may be lawful for every person that is owner of any lands, goods, or credits in the said Province, and that has a right to alienate the said lands, goods

goods or credits, in his or her life-time, by deed of sale, gift or otherwise, to devise or bequeath the same at his or her death, by his or her last will and testament, any law, usage or custom, heretofore or now prevailing in the Province, to the contrary hereof in any wise notwithstanding; such will being executed, either according to the laws of Canada, or according to the forms prescribed by the laws of England.

(But see now, the Provincial Statutes in force in this Province on this subject.)

11. And whereas the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants, from an experience of more than nine years, during which it has been uniformly administered; be it therefore further enacted by the authority aforesaid, That the same shall continue to be administered, and shall be observed as law in the Province of Quebec, as well in the description and quality of the offence as in the method of prosecution and trial, and the punishments and forfeitures thereby inflicted, to the exclusion of every other rule of criminal law, or mode of proceeding thereon, which did or might prevail in the said Province before the year of our Lord one thousand seven hundred and sixty-four, anything in this Act to the contrary thereof in any respect notwithstanding; subject nevertheless to such alterations and amendments as the Governor, Lieutenant Governor or Commander in Chief for the time being, by and with the advice and consent of the Legislative Council of the said Province, hereafter to be appointed, shall, from time to time, cause to be made therein, in manner hereinafter directed.

Criminal law of England to be continued in the Province.

(See, as to Ontario, the Act of U. C. 40 G. 3, c. 1, s. 1, (C. S. U. C. c. 94), adopting the Criminal Law of England as it stood on 7th Sept., 1792, subject to any alteration to be made by the Provincial Legislature.)

Sections 12, 13, 14, 15 and 16, related to the constitution and powers of the Legislative Council for the Province, and were repealed by 31 G. 3, c. 31, s. 1.

17. Nothing herein contained shall extend, or be construed to extend, to prevent or hinder His Majesty, His Heirs and Successors, by His or Their letters patent under the great seal of Great Britain, from erecting, constituting, and appointing, such courts of criminal, civil, and ecclesiastical jurisdiction within and for the said Province of Quebec, and appointing, from time to time, the judges and officers thereof, as His Majesty, His Heirs and Successors, shall think necessary and proper for the circumstances of the said Province.

Nothing herein to prevent his Majesty appointing Courts, etc., and their officers under the great seal.

All acts formerly made for regulating trade, &c., to remain in force within the Province.

18. Provided always, that nothing in this Act contained shall extend, or be construed to extend, to repeal or make void, within the said Province of Quebec, any Act or Acts of the Parliament of Great Britain *heretofore made*, for prohibiting, restraining, or regulating the trade or commerce of His Majesty's colonies and plantations in America; but that all and every the said Acts, and also all Acts of Parliament heretofore made concerning or respecting the said colonies and plantations, shall be, and are hereby declared to be in force within the said Province of Quebec, and every part thereof.

(Its seems unlikely that there are any Acts to which this section can apply.)

18 GEO. 3, c. 12—1778.

An Act for removing all doubts and, apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces, and Plantations in North America and the West Indies; and for repealing so much of an Act made in the seventh year of the reign of His present Majesty, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or relates thereto.

Preamble.

WHEREAS taxation by the Parliament of Great Britain for the purpose of raising a revenue in His Majesty's Colonies, Provinces, and Plantations in North America, has been found by experience to occasion great uneasiness and disorders among His Majesty's faithful subjects, who may nevertheless be disposed to acknowledge the justice of contributing to the common defence of the Empire, provided such contribution should be raised under the authority of the General Court, or General Assembly of each respective Colony, Province, or Plantation :

And whereas, in order as well to remove the said uneasinesses, and to quiet the minds of His Majesty's subjects who may be disposed to return to their allegiance, as to restore the peace and welfare of all His Majesty's dominions, it is expedient to declare that the King and Parliament of Great Britain will not impose any duty, tax or assessment, for the purpose of raising a revenue in any of the Colonies, Provinces, or Plantations :

May

May it please Your Majesty that it may be declared and enacted, and it is hereby declared and enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same :

1. That from and after the passing of this Act, the King and Parliament of Great Britain will not impose any duty, tax or assessment whatever, payable in any of His Majesty's Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it may be expedient to impose for the regulation of commerce ; the net produce of such duties to be always paid and applied to and for the use of the Colony, Province, or Plantation, in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts, or General Assemblies of such Colonies, Provinces, or Plantations are ordinarily paid and applied.

No tax to be imposed on the Colonies by the Parliament of Great Britain.

Except duties for the regulation of trade to be applied for the use of the Colony.

2. That from and after the passing of this Act, so much of an Act made in the seventh year of His present Majesty's reign, intituled, *An Act for granting certain duties in the British Colonies and Plantations in America ; for allowing a drawback of the duties of Customs upon the exportation from this Kingdom of coffee and cocoa-nuts of the produce of the said Colonies or Plantations ; for discontinuing the drawbacks payable on China earthenware exported to America ; and for more effectually preventing the clandestine running of goods in the said Colonies and Plantations, as imposes a duty on tea imported from Great Britain into any Colony or Plantation in America, or has relation to the said duty, be, and the same is hereby repealed.*

7 Geo. 3, c. 46, repealed.

(This Act is continued by sections 46 and 47 of Imp. Act 31 Geo. 3, c. 31. and section 43 of Imp. Act 3 & 4 Vict. c. 35.)

IMP. ACT, 31 GEO. 3, c. 31—1791.

An Act to repeal certain parts of an Act, passed in the fourteenth year of His Majesty's reign, intituled, *An Act for making more effectual provision for the government of the Province of Quebec, in North America ; and to make further provision for the government of the said Province.*

WHEREAS an Act was passed in the fourteenth year of the reign of His present Majesty, intituled, *An Act for making more effectual provision for the government of* Preamble.
14 G. 3, c. 82.

the

the Province of Quebec, in North America: and whereas the said Act is in many respects inapplicable to the present condition and circumstances of the said Province: and whereas, it is expedient and necessary that further provision should now be made for the good government and prosperity thereof:

May it therefore please Your Most Excellent Majesty that it may be enacted; and be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same:

(Section 1 repealed so much of Imp. Act 14 Geo. 3, c. 83, as related to the appointment and jurisdiction of a Council for the Province of Quebec.)

(Sections 2 to 32, both inclusive, related to the constitution of a Legislative Council and Legislative Assembly in Upper and Lower Canada respectively, and were repealed by the Union Act (3 & 4 Vict. c. 35, sec. 2.)—Section 33 merely continues laws then in force until otherwise ordered by the Legislature of either Province respectively.)

(Section 34 made the Governor &c., and the Executive Council, in either Province, a Provincial Court of Appeals. But other provision has been made in this Province under the power given to the Legislature by that section.)

(Section 35 continued in force Section 6 of Imp. Act 14 Geo. 3, c. 83, and provided for the application of tithes collected from lands and possessions occupied by Protestants to the support of a Protestant clergy. It also provided that this section might be repealed or varied by the Provincial Legislatures; and tithes were abolished in U. C. by 2 Geo. 4, c. 32.)

(Sections 36, 37, 38, 39, 40, 41, related to the reservation of lands for the support of a Protestant clergy, and the endowment of rectories. The Imperial Act 3 & 4 Vict. c. 78, s. 11, repealed so much of this Act as related to any such reservation thereafter to be made: and the Prov. Act 14 & 15 Vict. c. 175, (Con. Stat. of Canada, c. 74,) repealed ss. 38, 39 and 40 of this Act relating to the establishment of rectories, saving past rights if found valid, and directing how the presentation to any rectory which is found to have been legally established, shall thereafter be made. The said Provincial Act was passed under the authority given by s. 41 of the Act now under consideration.)

Provisions respecting the allotment of lands for the support of a Protestant clergy, &c., may be varied or repealed by

41. The several provisions hereinbefore contained respecting the allotment and appropriation of lands for the support of a Protestant clergy within the said Provinces, and also respecting the constituting, erecting, and endowing parsonages or rectories within the said provinces, and also respecting

ing the presentation of incumbents or ministers to the same, and also respecting the manner in which such incumbents or ministers shall hold and enjoy the same, shall be subject to be varied or repealed by any express provisions for that purpose, contained in any Act or Acts which may be passed by the Legislative Council and Assembly of the said Provinces respectively, and assented to by His Majesty, His Heirs or Successors, under the restriction hereinafter provided.

the Legislative
Council and
Assembly.

(Section 42, required that certain Bills respecting ecclesiastical rights and waste lands of the Crown should be reserved and laid before Parliament before being assented to, but see the Union Act (3 & 4 Vict. c. 35, s. 42), Imp. Act 17 & 18 Vict. c. 118, s. 6, and the B. N. A. Act, 1867, ss. 55, 56 and 90.)

43. All lands which shall be hereafter granted within the said Province of Upper Canada, shall be granted in free and common socage, in like manner as lands are now holden in free and common socage, in that part of Great Britain called England; and in every case where lands shall be hereafter granted within the said Province of Lower Canada, and where the grantee thereof shall desire the same to be granted in free and common socage, the same shall be so granted; but subject nevertheless to such alterations, with respect to the nature and consequences of such tenure of free and common socage, as may be established by any law or laws which may be made by His Majesty, His Heirs or Successors, by and with the advice and consent of the Legislative Council and Assembly of the Province.

Lands in Upper Canada to be granted in free and common socage, and also in Lower Canada, if desired.

(Section 44 provided that any person holding lands in U. C. by virtue of a certificate of occupation from the Governor and Council of the Province of Quebec upon surrendering the same should receive a fresh grant thereof to be holden in free and common socage, but it is improbable that any cases now remain to which this and the following section apply.)

(Section 45 provided that such surrender and grant should be made subject to any interest in such land which any one other than the person surrendering should have at the time of surrender, and should not affect such interest.)

(Secs. 46 and 47 referred to the Imp. Act 18 Geo. 3, c. 12, [See ante p. 10], and were to the same effect and in the same terms as Section 43 of the Union Act [3 & 4 Vict. c. 35.])

(Secs. 48, 49 and 50 were mere temporary provisions relating to the coming into force of the Act and matters preliminary thereto.)

1 & 2 GEO. 4, c. 66—1821.

Courts of Judicature in Upper Canada to take cognizance of causes in Indian territories.

(The only sections of this Act affecting Ontario appear to be Sections 6 and 7.)

Actions relating to lands not within Upper Canada decided according to laws of England.

Proceedings of Courts issued as heretofore.

6. And be it further enacted, that from and after the passing of this Act, the Courts of Judicature now existing, or which may be hereafter established in the Province of Upper Canada shall have the same civil jurisdiction, power and authority, as well in the cognizance of suits, as in the issuing of process mesne and final, and in all other respects whatsoever within the said Indian Territories and other parts of America, not within the limits of either of the Provinces of Lower or Upper Canada, or of any civil government of the United States, as the said Courts have or are invested with within the limits of the said Provinces of Lower or Upper Canada respectively; and that all and every contract, agreement, debt, liability and demand whatsoever, made, entered into, incurred or arising within the said Indian Territories and other parts of America, and all and every wrong and injury to the person or to property, real or personal, committed or done within the same shall be and be deemed to be of the same nature and cognizable by the same Courts, Magistrates or Justices of the Peace and be tried in the same manner and subject to the same consequences, in all respects, as if the same had been made, entered into, incurred, arisen, committed or done within the said Province or Upper Canada, anything in any Act or Acts of Parliament or grant or charter to the contrary notwithstanding: Provided always, that all such suits and actions relating to lands or to any claim in respect of land, not being within the Province of Upper Canada, shall be decided according to the laws of that part of the United Kingdom called England, and shall not be subject to or affected by any local acts, statutes or laws of the Legislature of Upper Canada.

7. And be it further enacted, That all process, writs, orders, judgments, decrees and acts whatsoever, to be issued, made, delivered, given and done by or under the authority of the said Courts, or either of them, shall have the same force, authority and effect within the said Indian Territory and other parts of America, as aforesaid, as the same now have within the said Province of Upper Canada.

1 WM. 4, c. 4—1830.

An Act to render valid acts done by the Governor of any of His Majesty's Plantations after the expiration of his Commission by the demise of His late Majesty, and to extend the period within which the Patents of Governors of Colonies shall on any future demise of the Crown become vacant, and to provide for the longer duration of the Patents of Governors after the demise of the Crown.

(Section 1 provided that all powers vested in Governors of Colonies, &c., by Patent or Commission of Geo. 4 should continue in force until new Patents should be issued and made known in such Colonies, and is effete.)

2. And be it further enacted, That no patent, commission, warrant or other authority for the exercise of any office or employment, civil or military, within any of His Majesty's plantations or possessions abroad, determinable at the pleasure of His Majesty, or of any of His Majesty's Heirs and Successors shall, by reason of any future demise of the Crown be vacated or become void until the expiration of eighteen calendar months next after any such demise of the Crown as aforesaid.

Extending the period at which patents, &c., for offices in the colonies shall remain in force at any future demise of the Crown.

3 & 4 VICT., c. 35—1840.

An Act to Re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada.

(All the sections of this Act have been repealed or superseded by subsequent Imperial or Provincial legislation, or have become effete, except section 43.)

43. And whereas, by an Act passed in the eighteenth year of the reign of His late Majesty King George the Third, intituled, *An Act for removing all doubts and apprehensions concerning taxation by the Parliament of Great Britain in any of the Colonies, Provinces and Plantations in North America and the*

Colonial taxation, 18 G. 3, c. 12.

the

the West Indies ; and for repealing so much of an Act made in the seventh year of the reign of His present Majesty as imposes a Duty on Tea imported from Great Britain into any Colony or Plantation in America, or relating thereto, it was declared, that "the King and Parliament of Great Britain would not impose any duty, tax or assessment, whatever, payable in any of His Majesty's Colonies, Provinces and Plantations in North America or the West Indies, except only such duties as it might be expedient to impose for the regulation of commerce, the net produce of such duties to be always paid and applied to and for the use of the Colony, Province or Plantation in which the same shall be respectively levied, in such manner as other duties collected by the authority of the respective General Courts or General Assemblies of such Colonies, Provinces or Plantations were ordinarily paid and applied :"

And whereas it is necessary, for the general benefit of the Empire, that such power of regulation of Commerce should continue to be exercised by Her Majesty and the Parliament of the United Kingdom of *Great Britain and Ireland*, subject nevertheless to the conditions hereinbefore recited with respect to the application of any duties which may be imposed for that purpose :

Be it therefore enacted, that nothing in this Act contained shall prevent or affect the execution of any law which hath been or shall be made in the Parliament of the said United Kingdom for establishing regulations and prohibitions, or for the imposing, levying or collecting duties for the regulation of navigation, or for the regulation of the commerce between the Province of *Canada* and any other part of Her Majesty's dominions, or between the said Province of *Canada*, or any part thereof, and any foreign country or State, or for appointing and directing the payment of drawbacks of such duties so imposed, or to give to Her Majesty any power or authority, by and with the advice and consent of such Legislative Council and Assembly of the said Province of *Canada*, to vary or repeal any such law or laws, or any part thereof, or in any manner to prevent or obstruct the execution thereof ; Provided always, that the net produce of all duties which shall be so imposed shall at all times hereafter be applied to and for the use of the said Province of *Canada*, and (except as hereinafter provided) in such manner only as shall be directed by any law or laws which may be made by Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of such Province.

6 & 7 VIC. C. 34—1843.

An Act for the Better Apprehension of Certain Offenders.

WHEREAS it is expedient to make more effectual provision for the apprehension and trial of offenders against the laws who may be in other parts of Her Majesty's Dominions than those in which their offences were committed :

Offenders in the Colonies escaping into the United Kingdom may be there apprehended.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same ;

That from and after the passing of this Act, if any person charged with having committed any offence such as is herein-after mentioned against the laws of any part of Her Majesty's Dominions, not being part of the United Kingdom of *Great Britain and Ireland*, and against whom a warrant shall have been issued for such offence by any person having lawful authority to issue the same within that part of Her Majesty's Dominions where such offence shall have been committed, shall be in any place within the said United Kingdom, it shall be lawful, in *Great Britain*, for one of Her Majesty's principal Secretaries of State, and in *Ireland* for the Chief Secretary of the Lord Lieutenant of *Ireland*, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and to all other persons to whom such warrant was originally directed, and also to all constables and other peace officers in that part of the United Kingdom where the said warrant shall be so endorsed, to execute the said warrant, by apprehending the person against whom such warrant is directed, and to convey the said person before a Justice of the Peace for the county or other jurisdiction in which the supposed offender shall be apprehended, or in *Scotland* either before such Justice of the Peace or before the Sheriff Depute or Substitute.

2. And to remedy the like failure of justice by the escape of persons charged with having committed offences into those parts of Her Majesty's Dominions which do not form part of the said United Kingdom ;

For apprehension of offenders escaping to the Colonies.

Be it enacted, That from and after the passing of this Act, if any person charged with having committed any offence such as is hereinafter mentioned in any part of Her Majesty's Dominions, whether or not within the said United Kingdom, and against whom a warrant shall be issued by any person or persons having lawful authority

to

to issue the same, shall be in any other part of Her Majesty's Dominions not forming part of the said United Kingdom, it shall be lawful for the Chief Justice or any other Judge of Her Majesty's Superior Court of law within that other part of Her Majesty's Dominions where such person shall be, to endorse his name on such warrant, which warrant so endorsed shall be a sufficient authority to the person or persons bringing such warrant, and also to all persons to whom such warrant was originally directed, and also to all peace officers of the place where the warrant shall be so endorsed, to execute the same within the jurisdiction of the person by whom it shall be so endorsed, by apprehending the person against whom such warrant is directed, and to convey him before a Magistrate or other person having authority to examine and commit offenders for trial in that part of Her Majesty's Dominions.

Offender may be committed to gaol until he can be sent back to the place where the offence was committed.

3. And be it enacted, That it shall be lawful for any person duly authorized to examine and commit offenders for trial before whom any such supposed offender shall be brought as aforesaid, upon such evidence of criminality as would justify his committal if the offence had been committed in that part of Her Majesty's Dominions, to commit such supposed offender to prison, there to remain until he can be sent back, in manner hereinafter mentioned, to that part of Her Majesty's Dominions in which he is charged with having committed such offence; and immediately upon the committal of such person, information thereof in writing, under the hand of the committing Magistrate, accompanied by a copy of the said warrant, shall be given, in *Great Britain*, to one of Her Majesty's principal Secretaries of State, and in *Ireland*, to the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions to the Governor or acting Governor.

Information of committal to be given.

Copies of depositions may be given in evidence.

4. Provided always, and be it enacted, That in every such case copies of the depositions upon which the original warrant was granted, certified under the hand of the person or persons issuing such warrant, and attested upon the oath of the party producing them to be true copies of the original depositions, may be received in evidence of the criminality of the person so apprehended.

Offenders apprehended to be sent to the place where the offence was committed.

5. And be it enacted, That it shall be lawful, in *Great Britain*, for any one of Her Majesty's principal Secretaries of State, and in *Ireland*, for the Chief Secretary of the Lord Lieutenant, and in any other part of Her Majesty's Dominions for the Governor or acting Governor, by warrant under his hand and seal to order any person who shall have been so apprehended and committed to gaol, to be delivered into the custody of some person or persons, to be named in the said warrant for the purpose of being conveyed into that part

part of Her Majesty's Dominions in which he is charged with having committed the offence, and being delivered into the custody of the proper authorities there, to be dealt with in due course of law as if he had been there apprehended, and to order that the person so committed to gaol be so conveyed accordingly; and if the said person, after he shall have been so apprehended, shall escape out of any custody to which he shall have been committed as aforesaid, it shall be lawful to retake such person, in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions may be retaken upon an escape.

6. And be it enacted, That where any person who shall have been committed to gaol under this Act shall not be conveyed out of that part of Her Majesty's Dominions in which he shall have been so committed to gaol within two calendar months after such committal, over and above the time actually required to convey the prisoner from the gaol to which he was committed by the readiest way out of that part of Her Majesty's Dominions, it shall be lawful for any of Her Majesty's Judges in that part of Her Majesty's Dominions in which such supposed offender shall be in custody, upon application made to him or them, by or on behalf of the person so committed, and upon proof made to him or them that reasonable notice of the intention to make such application has been given to one of Her Majesty's principal Secretaries of State in *Great Britain*, or in *Ireland* to the Chief Secretary of the Lord Lieutenant of *Ireland*, or to the Governor or acting Governor in any other part of Her Majesty's Dominions, to order the person so committed to be discharged out of custody, unless sufficient cause be shown to such Judge or Judges why such discharge ought not to be ordered.

If not sent within two months after committal may apply to be discharged.

7. And be it enacted, That in case any person apprehended under this Act shall not be indicted for the offence for which he shall have been so apprehended within the period of six calendar months after his arrival in that part of Her Majesty's Dominions in which he is charged to have committed the offence, or if upon his trial, he shall be acquitted, it shall be lawful, in *Great Britain*, for one of Her Majesty's Principal Secretaries of State, and in *Ireland*, for the Chief Secretary of the Lord Lieutenant of *Ireland*, and for the Governor or acting Governor in any other part of Her Majesty's Dominions, if he shall think fit, upon the request of the person so apprehended, to cause such person to be sent back, free of cost to such person, and with as little delay as possible, to that part of Her Majesty's Dominions in which he shall have been so apprehended.

Persons apprehended if not indicted within six months, or if not convicted, may be sent back.

8. And be it enacted, That the Court before which any person apprehended under this Act shall be prosecuted or tried within the said United Kingdom may order, if it shall think fit,

Providing for expense of removal of offenders to the United Kingdom.

fit, that the expenses of apprehending and removing the prisoner from any part of Her Majesty's Dominions not within the said United Kingdom to any place within the said United Kingdom, shall be repaid to the person defraying the same, by the Treasurer of the County or other Jurisdiction in *England or Ireland*, or by the Sheriff Depute or Substitute of the County in *Scotland*, in which the offence is charged to have been committed, the amount of such expenses being previously ascertained by an account thereof, verified by production of proper vouchers before two Justices of the Peace of such County or other Jurisdiction, which last mentioned Justices shall examine into the correctness of the said account, and shall allow the same or such part thereof as shall to them appear just and reasonable, under their hands and seals; and every Treasurer or Sheriff Depute or Substitute, who shall pay the amount so ascertained, shall be allowed such payment in his accounts respecting the business of such County or other Jurisdiction.

Proof of the signature of the person issuing the original warrant.

9. Provided always, and be it enacted, that it shall not be lawful for any person to endorse his name on any such warrant, for the purpose of authorizing the apprehension of any person under this Act, until it shall have been proved to him, upon oath or by affidavit, that the seal or signature upon the same is the seal or signature of the person having lawful authority to issue such warrant whose seal or signature the same purports to be.

Warrant not to be endorsed except in cases of treason and felony, &c.

10. Provided also, and be it enacted, That it shall not be lawful for any person to endorse his name upon any such warrant for the purpose of authorizing the apprehension of any person under this Act, unless it shall appear upon the face of the said warrant that the offence which the person for whose apprehension the said warrant has been issued is charged to have committed is such that, if committed within that part of Her Majesty's Dominions where the warrant is so endorsed it would have amounted in law to a treason, or some felony, *such as the Justices of the Peace in General or Quarter Sessions assembled have not authority to try in England under the provisions of an Act passed in the sixth year of the reign of Her Majesty, intituled "An Act to define the jurisdiction of Justices in General and Quarter Sessions of the Peace,"* or unless the depositions appear sufficient to warrant the committal of such person for trial.

(*Imp. Act 16 & 17 Vict. c. 118, provided that this section should thereafter be read and construed as if the words from "such" in the tenth line to "Peace" in the fourteenth line inclusive, had been omitted therein.*)

Section 11 provided that this Act might be amended, &c., by any Act of that session.)

6 & 7 VICT., c. 94—1843.

An Act to remove doubts as to the exercise of Power and Jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual.

WHEREAS by treaty, capitulation, grant, usage, sufferance and other lawful means, Her Majesty hath power and jurisdiction within divers countries and places out of Her Majesty's Dominions;

And whereas doubts have arisen how far the exercise of such power and jurisdiction is controlled by, and dependent on the laws and customs of this Realm, and it is expedient that such doubts should be removed;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same;

1. That it is and shall be lawful for Her Majesty to hold, exercise and enjoy any power or jurisdiction which Her Majesty now hath or may at any time hereafter have within any country or place out of Her Majesty's Dominions, in the same and as ample a manner as if Her Majesty had acquired such power or jurisdiction by the cession or conquest of territory.

The power acquired by Her Majesty in countries out of Her dominions shall be held on the same terms as Her Majesty's authority in the Crown Colonies.

2. And be it enacted, That every act, matter and thing which may at any time be done, in pursuance of any such power or jurisdiction of Her Majesty, in any country or place out of Her Majesty's Dominions, shall in all courts ecclesiastical and temporal and elsewhere within Her Majesty's Dominions, be and be deemed and adjudged to be, in all cases and to all intents and purposes whatsoever, as valid and effectual as though the same had been done according to the local law then in force within such country or place.

Acts done in pursuance of such power to be of the same effect as if done under local laws

3. And be it enacted, That if in any suit or other proceedings, whether civil or criminal, in any court ecclesiastical or temporal within Her Majesty's Dominions, any issue or question of law or of fact shall arise for the due determination whereof it shall, in the opinion of the judge or judges of such court, be necessary to produce evidence of the existence of any such power or jurisdiction as aforesaid or of the extent thereof, it shall be lawful for the judge or judges of any such court, and he or they are hereby authorized to transmit, under his or their hand and seal or hands and seals, to one

Courts authorized to procure evidence of such power by application to Secretary of State.

of

of Her Majesty's principal secretaries of state, questions by him or them properly framed respecting such of the matters aforesaid as it may be necessary to ascertain in order to the due determination of any such issue or question aforesaid; and such secretary of state is hereby empowered and required, within a reasonable time in that behalf, to cause proper and sufficient answers to be returned to all such questions, and to be directed to the said judge or judges, or their successors; and such answers shall, upon production thereof, be final and conclusive evidence, in any such suit or other proceedings, of the several matters therein contained and required to be ascertained thereby.

Power to send
persons charged
with crimes
for trial to a
British Colony.

4. And whereas it may in certain cases be expedient that crimes and offences committed within such countries or places as aforesaid, should be enquired of, tried, determined and punished within Her Majesty's Dominions;

Be it enacted, That it shall and may be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause any person charged with the commission of any crime or offence, the cognizance whereof may at any time appertain to any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, to be sent for trial to any British Colony which Her Majesty may, by any Order or Orders in Council, from time to time, appoint in that behalf; and upon the arrival of such person within such Colony it shall and may be lawful for the Supreme Court exercising criminal jurisdiction within the same, to cause such person to be kept in safe and proper custody, and, so soon as conveniently may be, to enquire of, try and determine such crime or offence, and upon the conviction of the person so charged as aforesaid, to correct and punish him according to the laws in force in that behalf within such Colony, in the same manner as if the said crime or offence had been committed within the jurisdiction of such Supreme Court;

Before any
such person
shall be sent
to any Colony
for trial he
may tender
any material
evidence that
he would be
unable to pro-
duce on trial
and which
shall be taken
down and
transmitted.

Provided always that before any such person shall be sent for trial to any such Colony as aforesaid, it shall be lawful for him to tender for examination to the judge, magistrate or other officer of Her Majesty, to whom the cognizance of the crime or offence with which he is charged may appertain within the country or place where the same may be alleged to have been committed, any competent witness or witnesses, the evidence of whom he may deem material for his defence, and whom he may allege himself to be unable to produce at his trial in the said Colony, and the said judge, magistrate or other officer shall thereupon proceed in the examination and cross-examination of such witness or witnesses in the same manner as though the same had been tendered at a trial before such judge, magistrate, or other officer,
and

and shall cause the evidence so taken to be reduced into writing, and shall transmit a copy of such evidence to the Supreme Court before which the trial of such person is to take place, together with a certificate under his hand and seal of the correctness of such copy; and thereupon it shall be lawful for the said Supreme Court, and it is hereby required to allow so much of the evidence so taken as aforesaid, as would have been admissible according to the law and practice of the said Supreme Court, had the said witness or witnesses been produced and examined at the trial before the said Court, to be read and received as legal evidence at such trial;

Provided also, that if it shall be made to appear at such trial, that the laws by which the person charged with any criminal act would have been tried had his trial taken place before a judge, magistrate, or other officer of Her Majesty in the country or place in which such act may be alleged to have been committed, vary from or are inconsistent with the laws in force within such colony in respect either of the criminality of the Act charged or of the nature or degree of the alleged crime or offence, or of the punishments to be awarded for the same; such Supreme Court is hereby empowered and required to admit and give effect to the laws by which such person would have been so tried as aforesaid, so far as, but not further or otherwise, than the same relate to the criminality of such act, or to the nature or degree of such crime or offence, or to the punishment thereof;

In case the laws of the place in which the act was committed vary from those of the Colony, Courts may give effect to them.

Provided also, that nothing herein contained shall be construed to alter or repeal any law, statute or usage by virtue of which any crime or offence committed out of Her Majesty's Dominions might at the time of the passing of this Act be inquired of, tried, determined and punished within Her Majesty's Dominions, or any part thereof, but the same shall remain in full force and effect, anything herein contained to the contrary notwithstanding.

Nothing herein to alter any law respecting crimes committed out of Her Majesty's Dominions.

5. And whereas it may likewise, in certain cases, be expedient that the sentences passed within such countries and places as aforesaid at the trial of crimes and offences within the same be carried into effect within Her Majesty's Dominions;

Power to send convicts for execution or imprisonment to a British Colony.

Be it enacted, That if any offender shall have been sentenced to suffer death or imprisonment, for or in respect of any crime or offence of which such offender shall have been lawfully convicted before any judge, magistrate or other officer of Her Majesty within any such country or place as aforesaid, it shall be lawful for any person having authority derived from Her Majesty in that behalf, by warrant under his hand and seal, to cause such offender to be sent to any British Colony

Colony which Her Majesty may by any order or orders in council from time to time appoint in that behalf, in order that the sentence so passed such offender may be carried into effect within the same; and the magistrates, gaolers, and other officers, to whom it may appertain to give effect to any sentence passed by the Supreme Court exercising criminal jurisdiction within such Colony, are hereby empowered and required to do all acts and things necessary to carry into effect the sentence so passed upon such offender, in the same manner as though the same had been passed by such Supreme Court.

(Section 6 provided for transportation of such offenders, but this punishment is now abolished by Imp. Acts 20 & 21 Vict., c. 3, & 32 Vict., c. 10, sec. 3.)

**Limitation of
Actions.**

24 G 2, c. 44.

7. And be it enacted, That if any suit or action shall be brought in any court within Her Majesty's Dominions against any person or persons for anything done in pursuance of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, then and in every such case such action or suit shall be commenced or prosecuted within six months after the fact committed, and not afterwards, except where the cause of action shall have arisen out of Her Majesty's Dominions, and then within six months after the plaintiff or plaintiffs and defendant or defendants shall have been within the jurisdiction of the court in which the same may be brought; and the same and every such action or suit shall be brought in the county or place where the cause of action shall have arisen, and not elsewhere, except where the cause of action shall have arisen out of Her Majesty's Dominions; and the defendant or defendants shall be entitled to the like notice, and shall have the like privilege of tendering amends to the plaintiff or plaintiffs, or their agent or attorney, as is provided in actions brought against any justice of the peace for acts done in the execution of his office by an Act passed in the twenty-fourth year of the reign of King George the Second, intituled, *An Act for rendering Justices of the Peace more safe in the execution of their office, and for indemnifying constables and others acting in obedience to the warrants*; and the defendant or defendants in every such action or suit may plead the general issue, and give the special matter in evidence; and if the matter or thing complained of shall appear to have been done under the authority and in the execution of any such power or jurisdiction of Her Majesty as aforesaid, or of this Act, or if any such action or suit shall be brought after the time limited for bringing the same, or be brought and laid in any other county or place than the same ought to have been brought or laid in as aforesaid, then the jury shall find for the defendant or defendants; and if the plaintiff or plaintiffs shall become nonsuit, or discontinue any action after the defendant or defendants shall have appeared, or if a verdict

verdict shall pass against the plaintiff or plaintiffs, or, if upon demurrer, judgment shall be taken against the plaintiff or plaintiffs, the defendant or defendants shall and may recover treble costs, and have the like remedy for recovery thereof as any defendant or defendants hath or have in any cases of law.

!-(Section 8 does not apply to this Province.)

(Section 9 provided that this Act might be altered, etc., by any Act passed in that Session.)

(28 & 29 Vict., c. 116, provides that, in the above Act, the term British Colony shall include, and be construed to include, any of Her Majesty's possessions out of the United Kingdom.)

10 & 11 VICT., c. 95—1847.

An Act to Amend the law relating to the Protection in the Colonies of Works entitled to Copyright in the United Kingdom.

WHEREAS by an Act passed in the session of Parliament holden in fifth and sixth years of Her present Majesty, intituled, *An Act to amend the Law of Copyright*, it is, amongst other things, enacted, that it shall not be lawful for any person not being the proprietor of the copyright, or some person authorized by him, to import into any part of the United Kingdom, or into any other part of the *British Dominions*, for sale or hire, any printed book, first composed, or written, or printed, or published, in any part of the United Kingdom wherein there shall be copyright, and reprinted in any country or place whatsoever out of the *British Dominions*. 5 & 6 Vict., c. 45.

And whereas, by an Act passed in the session of Parliament holden in the eight and ninth years of the reign of Her present Majesty, intituled, *An Act to regulate the Trade of the British Possessions abroad* books wherein the copyright is subsisting, first composed, or written, or printed in the United Kingdom, and printed or reprinted in any other country are absolutely prohibited to be imported into the *British Possessions abroad* : 8 & 9 Vict., c. 93.

And whereas, by the said last recited Act it is enacted, that all laws, by-laws, usages, or customs in practice or endeavoured

voured or pretended to be in force or practice in any of the *British Possessions in America*, which are in any wise repugnant to the said Act or to any Act of Parliament made or to be made in the United Kingdom, so far as such Act shall relate to and mention the said Possessions, are and shall be null and void to all intents and purposes whatsoever ;

Her Majesty may suspend in certain cases the prohibition against the admission of pirated books into the Colonies in certain cases.

Now be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, That in case the Legislature or proper Legislative authorities in any *British Possession* shall be disposed to make due provision for securing or protecting the rights of *British* authors in such Possessions, and shall pass an Act or make an Ordinance for that purpose, and shall transmit the same in the proper manner to the Secretary of State, in order that it may be submitted to Her Majesty, and in case Her Majesty shall be of opinion that such Act or Ordinance is sufficient for the purpose of securing to *British* authors reasonable protection within such Possession, it shall be lawful for Her Majesty, if she think fit so to do, to express Her Royal approval of such Act or Ordinance, and thereupon to issue an Order in Council declaring that so long as the provisions of such Act or Ordinance continue in force within such Colony the prohibitions contained in the aforesaid Acts, and hereinbefore recited, and any prohibitions contained in the said Acts or in any other Acts against the importing, selling, letting out to hire, exposing for sale or hire, or possessing foreign reprints of books first composed, written, printed or published in the United Kingdom, and entitled to copyright therein, shall be suspended, so far as regards such Colony ; and thereupon such Act or Ordinance shall come into operation, except so far as may be otherwise provided therein, or as may be otherwise directed by such Order in Council, anything in the said last recited Act or in any other Act to the contrary notwithstanding.

Orders in Council to be published in Gazette and laid before Parliament.

2. And be it enacted, that every such Order in Council shall, within one week after the issuing thereof, be published in the *London Gazette* and that a copy thereof, and of every such Colonial Act or Ordinance so approved as aforesaid by Her Majesty, shall be laid before both Houses of Parliament within six weeks after the issuing of such Order, if Parliament be then sitting, or if Parliament be not then sitting, then within six weeks after the opening of the next session of Parliament.

(Section 3 provided that this Act might be amended, by any Act of that session.)

(See Imp. Act, 38 & 39 Vict., c. 53, post.)

12 & 13 VICT. c. 96.—1849.

An Act to provide for the prosecution and trial in Her Majesty's Colonies of offences committed within the jurisdiction of the Admiralty.

WHEREAS by an Act passed in the eleventh year of the ^{10 & 11 W. 3, c. 7.} reign of King William the Third, intituled, *An Act for the more effectual suppression of Piracy*, it is enacted That all piracies, felonies and robberies committed on the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be examined, enquired of, tried, heard, and determined, and adjudged, in any place at sea or upon the land in any of His Majesty's islands, plantations, colonies, dominions, forts, or factories to be appointed for that purpose by the King's commission in the manner therein directed, and according to the civil law, and the method and rules of the Admiralty:

And whereas, by an Act passed in the forty-sixth year of ^{46 G. 3, c. 54.} the reign of King George the Third, intituled, *An Act for the speedy trial of offences committed in distant parts upon the sea*, it is enacted, That all treasons, piracies, felonies, robberies, murders, conspiracies, and other offences of what nature or kind soever, committed upon the sea, or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, may be enquired of, tried, heard, determined and adjudged, according to the common course of the laws of this Realm used for offences committed upon the land within this Realm and not otherwise, in any of His Majesty's islands, plantations, colonies, dominions, forts or factories, under and by virtue of the King's commission or commissions under the Great Seal of Great Britain, to be directed to commissioners in the manner and with the powers and authorities therein provided:

And whereas, it is expedient to make further and better provision for the apprehension, custody, and trial in Her Majesty's islands, plantations, colonies, dominions, forts and factories of persons charged with the commission of such offences upon the sea, or in any such haven, river, creek, or place as aforesaid:

Enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, That if any person within any Colony shall be charged with the commission

All persons charged in any Colony with offences committed on the sea to be dealt with in the same manner

sion

as if the offences had been committed on waters in the local jurisdiction of the Courts of the Colony.

sion of any treason, piracy, felony, robbery, murder, conspiracy or other offence of what nature or kind soever, committed upon the sea or in any haven, river, creek, or place where the Admiral or Admirals have power, authority, or jurisdiction, or if any person charged with the commission of any such offence upon the sea, or in any such haven, river, creek or place shall be brought for trial to any Colony, then and in every such case all magistrates, justices of the peace, public prosecutors, juries, judges, courts, public officers and other persons in such Colony shall have and exercise the same jurisdiction and authorities for inquiring of, trying, hearing, determining and adjudging such offences, and they are hereby respectively authorized, empowered, and required to institute and carry on all such proceedings for the bringing of such person so charged as aforesaid to trial, and for, and auxiliary to, and consequent upon, the trial of any such person for any such offence wherewith he may be charged as aforesaid, as by the law of such Colony would and ought to have been had and exercised or instituted and carried on by them respectively if such offence had been committed, and such person had been charged with having committed the same upon any waters situate within the limits of any such Colony, and within the limits of the local jurisdiction of the courts of criminal justice of such Colony.

Persons convicted of such offences shall suffer the like punishment as in England,

2. Provided always, and be it enacted, That if any person shall be convicted before any such court of any such offence, such person so convicted shall be subject and liable to, and shall suffer all such and the same pains, penalties and forfeitures as by any law or laws now in force persons convicted of the same respectively would be subject and liable to in case such offence had been committed, and were enquired of, tried, heard, determined, and adjudged, in England, any law, statute or usage to the contrary notwithstanding.

Provision for the trial of murder and manslaughter where the death only happens in the Colony or upon the sea.

3. And be it enacted, That where any person shall die in any Colony of any stroke, poisoning, or hurt, such person having been feloniously stricken, poisoned, or hurt upon the sea or in any haven, river, creek or place where the Admiral or Admirals have power, authority, or jurisdiction, or at any place out of such Colony, every offence committed in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter or of being accessory before the fact to murder or after the fact to murder or manslaughter, may be dealt with, enquired of, tried, determined and punished in such Colony in the same manner in all respects as if such offence had been wholly committed in that Colony; and that if any person in any Colony shall be charged with any such offence as aforesaid in respect of the death of any person who, having been feloniously stricken, poisoned or otherwise hurt, shall have died of such stroke, poisoning or hurt, upon the sea, or in any haven, river, creek or place where

where the Admiral or Admirals have power, authority or jurisdiction, such offence shall be held for the purpose of this Act to have been wholly committed upon the Sea.

Section 4 relates to New South Wales and Van Dieman's Land only.

5. And be it enacted, That for the purposes of this Act the word, "Colony," shall mean any island, plantation, colony, dominion, fort, or factory of Her Majesty, except any island within the United Kingdom and the Islands of *Man, Guernsey, Jersey, Alderney, and Sark*, and the Islands adjacent thereto respectively, and except also all such parts and places as are under the government of the *East India Company*; and the word, "Governor," shall mean the officer for the time being administering the government of any Colony.

Interpretation
of terms.

(Section 6 provided that this Act might be amended, &c., by any Act of that session.)

(See Imperial Act 37 & 38 Vict. Cap. 27, by which are regulated the sentences to be imposed by Colonial Courts where jurisdiction to try is conferred by Imperial Acts.)

14 & 15 VICT., c. 99—1851.

An Act to amend the Law of Evidence.

(The following is the only section of this Act affecting Ontario.)

11. Every document which by any law now in force, or hereafter to be in force, is or shall be admissible in evidence of any particular in any court of justice in *England, or Wales, or Ireland*, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same, shall be admitted in evidence to the same extent, and for the same purposes in any court of justice of any of the British Colonies, or before any person having in any of such Colonies by law, or by consent of parties, authority to hear, receive, and examine evidence, without proof of the seal, or stamp, or signature authenticating the same, or of the judicial or official character of the person appearing to have signed the same.

Documents
admissible
without proof
of seal, &c., in
England, &c.,
equally admis-
sible in the
Colonies.

17 & 18 Vict.

17 & 18 VICT. c. 104—1854.

An Act to Amend and Consolidate the Acts relating to Merchant Shipping.

WHEREAS it is expedient to amend and consolidate the Acts relating to Merchant Shipping;

Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short Title of Act.

1. This Act may be cited for all purposes as "The Merchant Shipping Act, 1854."

Interpretation of certain Terms in this Act.

2. In the construction and for the purposes of this Act (if not inconsistent with the context or subject matter) the following terms shall have the respective meanings hereinafter assigned to them; that is to say,

"Her Majesty's Dominions" shall mean Her Majesty's Dominions strictly so called, and all Territories under the Government of the *East India* Company, and all other Territories, (if any), governed by any charter or licence from the Crown or Parliament of the United Kingdom:
"The United Kingdom" shall mean *Great Britain and Ireland*:

"*British Possession*" shall mean any Colony, Plantation, Island, Territory, or Settlement within Her Majesty's Dominions, and not within the "United Kingdom:"

"The Treasury" shall mean the Commissioners of Her Majesty's Treasury:

"The Admiralty" shall mean the Lord High Admiral or the Commissioners for executing his office:

"The Board of Trade" shall mean the Lords of the Committee of Privy Council appointed for the consideration of matters relating to Trade and Foreign Plantations:

"The *Trinity House*" shall mean the Master, Wardens, and Assistants of the Guild. Fraternity, or Brotherhood of the Most Glorious and Undivided *Trinity* and of *St. Clement*, in the Parish of *Deptford Strond*, in the County of *Kent*, commonly called the Corporation of the *Trinity House of Deptford Strond*:

"The

- "The Port of *Dublin Corporation*" shall mean the Corporation for preserving and improving the Port of *Dublin* :
- "Consular Officer" shall include Consul General, Consul and Vice Consul, and any person for the time being discharging the duties of Consul General, Consul or Vice Consul :
- "Receiver" shall mean any person appointed in pursuance of this Act receiver of wreck :
- "Pilotage Authority" shall include all bodies and persons authorized to appoint or license pilots, or to fix or alter rates of pilotage, or to exercise any jurisdiction in respect of pilotage :
- "Pilot" shall mean any person not belonging to a ship who has the conduct thereof :
- "Qualified Pilot" shall mean any person duly licensed by any pilotage authority to conduct ships to which he does not belong :
- "Master" shall include every person (except a pilot) having command or charge of any ship :
- "Seaman" shall include every person (except masters, pilots, and apprentices duly indentured and registered,) employed or engaged in any capacity on board any ship :
- "Salvor" shall, in the case of salvage services rendered by the officers or crew or part of the crew of any ship belonging to Her Majesty, mean the person in command of such ship :
- "Person" shall include body corporate :
- "Ship" shall include every description of vessel used in navigation not propelled by oars :
- "Foreign-going Ship" shall include every ship employed in trading or going between some place or places in the United Kingdom, and some place or places situate beyond the following limits ; that is to say, the coasts of the United Kingdom, the Islands of *Guernsey*, *Jersey*, *Sark*, *Alderney* and *Man*, and the Continent of *Europe*, between the river *Elbe* and *Brest* inclusive :
- "Home-trade Ship" shall include every ship employed in trading or going within the following limits ; that is to say, the United Kingdom, the Islands of *Guernsey*, *Jersey*, *Sark*, *Alderney*, and *Man*, and the Continent of *Europe* between the river *Elbe* and *Brest* inclusive :
- "Home-trade Passenger Ship" shall mean every home-trade ship employed in carrying passengers :
- "Lighthouses" shall, in addition to the ordinary meaning of the word, include floating and other lights exhibited for the guidance of ships, and "buoys and beacons" shall include all other marks and signs of the sea :
- "Wreck" shall include jetsam, flotsam, bagan, and derelict found in or on the shores of the sea or any tidal water.

3. This Act shall come into operation on the first day of Commence
ment of Act.
May one thousand eight hundred and fifty-five.

Exemption of
Her Majesty's
Ships.

4. This Act shall not, except as hereinafter specially provided, apply to ships belonging to Her Majesty.

Division of
Act.

5. This Act shall be divided into Eleven Parts :—

The First Part relating to The Board of Trade ; its general Functions :

The Second Part to British Ships ; their Ownership, Measurement, and Registry :

The Third Part to Masters and Seamen :

The Fourth Part to Safety and Prevention of Accidents :

The Fifth Part to Pilotage :

The Sixth Part to Lighthouses :

The Seventh Part to the Mercantile Marine Fund :

The Eighth Part to Wrecks, Casualties, and Salvage :

The Ninth Part to Liability of Shipowners :

The Tenth Part to legal Procedure :

The Eleventh Part to Miscellaneous Matters.

PART I.

THE BOARD OF TRADE : ITS GENERAL FUNCTIONS.

Board of Trade
to be Depart-
ment to super-
intend Mer-
chant Ship-
ping.

6. The board of trade shall be the department to undertake the general superintendence of matters relating to merchant ships and seamen, and shall be authorized to carry into execution the provisions of this Act, and of all other Acts relating to merchant ships and seamen in force for the time being, other than such Acts as relate to the revenue.

Certificates
and Docu-
ments pur-
porting to be
sealed or sign-
ed in a given
manner to be
received in
evidence.

7. All documents whatever purporting to be issued or written by or under the direction of the board of trade, and purporting either to be sealed with the seal of such board, or to be signed by one of the secretaries or assistant secretaries to such board, shall be received in evidence, and shall be deemed to be issued or written by or under the direction of the said board, without further proof, unless the contrary be shown ; and all documents purporting to be certificates issued by the board of trade in pursuance of this Act, and to be sealed with the seal of such board, or to be signed by one of the officers of the marine department of such board, shall be received in evidence, and shall be deemed to be such certificates without further proof, unless the contrary be shown.

Board of Trade
to issue Forms
of Instru-
ments.

8. The board of trade may from time to time prepare and sanction forms of the various books, instruments, and papers required by this Act other than those required by the second part thereof, and may from time to time make such alterations therein as it deems requisite ; and shall, before finally issuing or altering any such form, give such public notice thereof

thereof as it deems necessary in order to prevent inconvenience; and shall cause every such form to be sealed with such seal as aforesaid, or marked with some other distinguishing mark, and to be supplied at the custom houses and shipping offices of the United Kingdom free of charge, or at such moderate prices as it may from time to time fix, or may license any persons to print and sell the same; and every such book, instrument, and paper as aforesaid shall be made in the form issued by the board of trade, and sanctioned by it as the proper form for the time being; and no such book, instrument, or paper as aforesaid, unless made in such form, shall be admissible in evidence in any civil proceeding on the part of any owner or master of any ship; and every such book, instrument, or paper, if made in a form purporting to be a proper form, and to be sealed or marked as aforesaid, shall be taken to be made in the form hereby required, unless the contrary is proved.

9. All instruments used in carrying into effect the second part of this Act, if not already exempted from stamp duty, and all instruments which by the third, fourth, sixth or seventh parts of this Act are required to be made in forms sanctioned by the board of trade, if made in such forms, and all instruments used by or under the direction of the board of trade in carrying such parts of this Act into effect, shall be exempt from stamp duty.

Certain Forms and Instruments to be exempt from Stamp Duty.

10. Every person who forges, assists in forging, or procures to be forged, such seal or other distinguishing mark as aforesaid, or who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any form issued by the board of trade, with the view of evading any of the provisions of this Act or any condition contained in such form, shall for each offence be deemed guilty of a misdemeanor; and every person, who, in any case in which a form sanctioned by the board of trade is, by the third part of this Act required to be used, uses without reasonable excuse any form not purporting to be so sanctioned, or who prints, sells or uses any document purporting to be a form so sanctioned knowing the same not to be so sanctioned for the time being or not to have been prepared and issued by the board of trade, shall for each such offence incur a penalty not exceeding ten pounds.

Penalties for forgery of Seal and fraudulent alteration of Forms, and for not using Forms issued by Board of Trade.

11. Subject to the provisions hereinafter contained all fees and payments, (other than fines), coming to the hands of the board of trade under the third and fourth parts of this Act, shall be carried to the account of the mercantile marine fund, hereinafter mentioned, and shall be dealt with as hereinafter prescribed in that behalf; and all fines coming to the hands of the board of trade under this Act shall be paid into the receipt

Application of Moneys and Fines paid to Board of Trade.

ceipt of Her Majesty's Exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom.

Returns to
Board of
Trade.

12. All consular officers, and all officers of customs abroad and all local marine boards and shipping masters, shall make and send to the board of trade such returns and reports on any matter relating to *British* merchant shipping or seamen as such board requires; and all shipping masters shall whenever required by the board of trade, produce to such board or to its officers all official log books and other documents which, in pursuance of this Act, are delivered to them.

Officers of
Board of
Trade, Naval
Officers,
Consuls, the
Registrar
General of
Seamen, offi-
cers of cus-
toms and
Shipping
Masters, may
inspect docu-
ments and
muster Crews.

13. Every officer of the board of trade, and every commissioned officer of any of Her Majesty's ships on full pay, and every *British* consular officer, and the registrar general of seamen and his assistant, and every chief officer of customs in any place in Her Majesty's Dominions, and every shipping master, may, in cases where he has reason to suspect that the provisions of this Act or the laws for the time being relating to merchant seamen and to navigation are not complied with, exercise the following powers; (that is to say,)

He may require the owner, master, or any of the crew of any *British* ship to produce any official log books or other documents relating to such crew or any member thereof in their respective possession or control:

He may require any such master to produce a list of all persons on board his ship, and take copies of such official log books, or documents, or any part thereof:

He may muster the crew of any such ship:

He may summon the master to appear and give any explanation concerning such ship or her crew or the said official log books or documents:

And if upon requisition duly made by any person so authorized in that behalf as aforesaid, any person refuses or neglects to produce any such official log book or document as he is hereinbefore required to produce, or to allow the same to be inspected or copied as aforesaid, or impedes any such muster of a crew as aforesaid, or refuses or neglects to give any explanation which he is hereinbefore required to give, or knowingly misleads or deceives any person hereinbefore authorized to demand any such explanation, he shall for each such offence incur a penalty not exceeding twenty pounds.

Board of Trade
may appoint
Inspectors.

14. The board of trade may from time to time, whenever it seems expedient to them so to do, appoint any person as an inspector,

inspector, to report to them upon the following matters ; (that is to say,)

- (1.) Upon the nature and causes of any accident or damage which any ship has sustained or caused, or is alleged to have sustained or caused :
- (2.) Whether the provisions of this Act, or any regulations made under or by virtue of this Act, have been complied with :
- (3.) Whether the hull and machinery of any steamship are sufficient and in good condition.

15. Every such inspector as aforesaid shall have the following powers ; (that is to say,) Powers of Inspectors.

- (1.) He may go on board any ship, and may inspect the same or any part thereof, or any of the machinery, boats, equipments, or articles on board thereof to which the provisions of this Act apply, not unnecessarily detaining or delaying her from proceeding on any voyage :
- (2.) He may enter and inspect any premises, the entry or inspection of which appears to him to be requisite for the purpose of the report which he is directed to make :
- (3.) He may, by summons under his hand, require the attendance of all such persons as he thinks fit to call before him and examine for such purpose, and may require answers or returns to any inquiries he thinks fit to make :
- (4.) He may require and enforce the production of all books, papers or documents which he considers important for such purpose :
- (5.) He may administer oaths, or may, in lieu of requiring or administering an oath, require every person examined by him to make and subscribe a declaration of the truth of the statement made by him in his examination :

And every witness so summoned as aforesaid shall be allowed such expenses as would be allowed to any witness attending on subpoena to give evidence before any court of record, or if in *Scotland*, to any witness attending on citation the court of justiciary ; and in case of any dispute as to the amount of such expenses the same shall be referred by the inspector to one of the masters of Her Majesty's Court of Queen's Bench in *England* or *Ireland*, or to the Queen's and Lord Treasurer's Remembrancer in *Scotland*, who, on a request made to him for

Witnesses to be allowed expenses ;

Penalty for
refusing to give
evidence.

for that purpose under the hand of the said inspector, shall ascertain and certify the proper amount of such expenses; and every person who refuses to attend as a witness before any such inspector, after having been required so to do in the manner hereby directed and after having had a tender made to him of the expenses, (if any) to which he is entitled as aforesaid, or who refuses or neglects to make any answer, or to give any return, or to produce any document in his possession, or to make or subscribe any declarations which any such inspector is hereby empowered to require, shall for each such offence incur a penalty not exceeding ten pounds.

Penalty for
obstructing
inspectors in
the execution
of their duty.

16. Every person who wilfully impedes any such inspector appointed by the board of trade as aforesaid in the execution of his duty, whether on board any ship or elsewhere, shall incur a penalty not exceeding ten pounds, and may be seized and detained by such inspector or other person or by any person or persons whom he may call to his assistance until such offender can be conveniently taken before some justice of the peace or other officer having proper jurisdiction.

PART II.

BRITISH SHIPS : THEIR OWNERSHIP, MEASUREMENT, AND REGISTRY.

Application.

Application of
Part II. of Act.

17 The second part of this Act shall apply to the whole of Her Majesty's Dominions.

Description and Ownership of British Ships.

Description
and ownership
of British
Ships.

18 No ship shall be deemed to be a *British Ship* unless she belongs wholly to owners of the following description; (that is to say,)

(1.) Natural-born *British* subjects :

Provided that no natural-born subject who has taken the oath of allegiance to any Foreign Sovereign or State shall be entitled to be such owner as aforesaid, unless he has subsequently to taking such last-mentioned oath taken the oath of allegiance to Her Majesty, and is and continues to be during the whole period of his so being an owner resident in some place within Her Majesty's Dominions, or if not so resident, member of a *British* factory, or partner in a house actually carrying on business

business in the United Kingdom or in some other place within Her Majesty's Dominions :

- (2.) Persons made denizens by letters of denization, or naturalized by or pursuant to any Act of the Imperial Legislature, or by or pursuant to any Act or Ordinance of the proper legislative authority in any *British Possession* :

Provided that such persons are and continue to be, during the whole period of their so being owners, resident in some place within Her Majesty's Dominions, or if not so resident, members of a *British* factory, or partners in a house actually carrying on business in the United Kingdom or in some other place within Her Majesty's Dominions, and have taken the oath of allegiance to Her Majesty subsequently to the period of their being so made denizens or naturalized :

- (3.) Bodies corporate established under, subject to the laws of, and having their principal place of business in the United Kingdom or some *British* possession.

(*But see Dom. Stat. 36 Vict., c. 128, s. 8.*)

19. Every *British* ship must be registered in manner hereinafter mentioned, except,

British Ships
with certain
exceptions
must be registered.

- (1.) Ships duly registered before this Act comes into operation :
- (2.) Ships not exceeding fifteen tons burden employed solely in navigation on the rivers or coasts of the United Kingdom, or on the rivers or coasts of some *British Possession* within which the managing owners of such ships are resident.
- (3.) Ships not exceeding thirty tons burden, and not having a whole or fixed deck, and employed solely in fishing or trading coastwise on the shores of *Newfoundland* or parts adjacent thereto, or in the Gulf of *St. Lawrence*, or on such portion of the coasts of *Canada*, *Nova Scotia*, or *New Brunswick* as lie bordering on such gulf :

And no ship hereby required to be registered shall, unless registered, be recognized as a *British* ship ; and no officer of customs shall grant a clearance or *transire* to any ship hereby required to be registered for the purpose of enabling her to proceed to sea as a *British* ship, unless the master of such ship upon being required so to do, produces to him such certificate of Registry as is hereinafter mentioned ; and if
(such

such ship attempts to proceed to sea as a *British* ship without a clearance or *transire*, such officer may detain such ship until such certificate is produced to him.

(But see sections 7 & 8 of Dom. Stat. 36 Vict., c. 128, as to ships exempted from registration in Canada.)

Measurement of Tonnage.

Tonnage
Deck: Feet;
Decimals.

20. Throughout the following rules the tonnage deck shall be taken to be the upper deck in ships which have less than three decks, and to be the second deck from below in all other ships; and in carrying such rules into effect all measurements shall be taken in feet and fractions of feet, and all fractions of feet shall be expressed in decimals.

RULE I.

For ships to be
registered and
other ships of
which the
hold is clear.

21. The tonnage of every ship to be registered, with the exceptions mentioned in the next section, shall, previously to her being registered, be ascertained by the following rule, hereinafter called Rule I.; and the tonnage of every ship to which such rule can be applied, whether she is about to be registered or not, shall be ascertained by the same rule:

Lengths.

(1.) Measure the length of the ship in a straight line along the upper side of the tonnage deck from the inside of the inner plank (average thickness) at the side of the stem to the inside of the midship stern timber or plank there, as the case may be, (average thickness,) deducting from this length what is due to the rake of the bow in the thickness of the deck, and what is due to the rake of the stern timber in the thickness of the deck, and also what is due to the rake of the stern timber in one-third of the round of the beam; divide the length so taken into the number of equal parts required by the following table, according to the class in such table to which the ship belongs:

TABLE.

Class 1. Ships of which the tonnage deck is according to the above measurement 50 long or under, into 4 equal parts.

“ 2. Ships of which the tonnage deck is according to the above measurement above 50 feet long and not exceeding 120, into 6 equal parts:

“ 3. Ships of which the tonnage deck is according to the above measurement above 120 feet long and not exceeding 180, into 8 equal parts:

Class

Class 4. Ships of which the tonnage deck is according to the above measurement above 180 feet long and not exceeding 225, into 10 equal parts :

“ 5. Ships of which the tonnage deck is according to the above measurement above 225 feet long, into 12 equal parts :

- (2.) Then the hold being first sufficiently cleared to admit of the required depths and breadths being properly taken, find the transverse area of such ship at each point of division of the length as follows :

Transverse
area.

Measure the depth at each point of division, from a point at a distance of one-third of the round of the beam below such deck, or, in case of a break, below a line stretched in continuation thereof, to the upper side of the floor timber at the inside of the limber strake after deducting the average thickness of the ceiling which is between the bilge planks and limber strake ; then, if the depth at the midship division of the length do not exceed sixteen feet, divide each depth into four equal parts ; then measure the inside horizontal breadth at each of the three points of division, and also at the upper and lower points of the depth extending each measurement to the average thickness of that part of the ceiling which is between the points of measurement ; number these breadths from above (*i. e.* numbering the upper breadth one, and so on down to the lowest breadth) ; multiply the second and fourth by four, and the third by two ; add these products together, and to the sum add the first breadth and the fifth ; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area ; but if the midship depth exceed sixteen feet, divide each depth into six equal parts instead of four, and measure as before directed the horizontal breadths at the five points of division, and also at the upper and lower points of the depth ; number them from above as before ; multiply the second, fourth, and sixth by four, and the third and fifth by two ; add these products together, and to the sum add the first breadth and the seventh ; multiply the quantity thus obtained by one-third of the common interval between the breadths, and the product shall be deemed the transverse area.

- (3.) Having thus ascertained the transverse area at each point of division of the length of the ship as required by the above table, proceed to ascertain the register tonnage of the ship in the following manner :

Computation
from areas.

Number

Number the areas successively 1, 2, 3, &c., No. 1 being at the extreme limit of the length at the bow, and the last No. at the extreme limit at the length at the stern; then, whether the length be divided according to the table into four or twelve parts as in classes 1 and 5, or any intermediate number as in Classes 2, 3, and 4, multiply the second and every even numbered area by four, and the third and every odd numbered area (except the first and last) by two; add these products together, and to the sum add the first and last if they yield anything; multiply the quantity thus obtained by one third of the common interval between the areas, and the product will be the cubical contents of the space under the tonnage deck; divide this product by one hundred, and the quotient being the tonnage under the tonnage deck shall be deemed to be the register tonnage of the ship, subject to the additions and deductions hereinafter mentioned.

Poop and any other closed-in space.

- (4.) If there be a break, a poop, or any other permanent closed-in space on the upper deck, available for cargo or stores, or for the berthing or accommodation of passengers or crew, the tonnage of such space shall be ascertained as follows:

Measure the internal mean length of such space in feet, and divide it into two equal parts; measure at the middle of its height three inside breadths, namely, one at each end and the other at the middle of the length; then to the sum of the end breadths add four times the middle breadth, and multiply the whole sum by one third of the common interval between the breadths; the product will give the mean horizontal area of such space; then measure the mean height, and multiply by it the mean horizontal area; divide the product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the tonnage under the tonnage deck, ascertained as aforesaid, subject to the following provisos; first, that nothing shall be added for a closed-in space solely appropriated to the berthing of the crew, unless such space exceeds one twentieth of the remaining tonnage of the ship, and in case of such excess the excess only shall be added; and, secondly, that nothing shall be added in respect of any building erected for the shelter of deck passengers, and approved by the Board of Trade.

In case of two or more decks.

- (5.) If the ship has a third deck, commonly called a spar deck, the tonnage of the space between it and the tonnage deck shall be ascertained as follows:

Measure in feet the inside length of the space at the middle of its height from the plank at the side of the stem

stem to the lining on the timbers at the stern, and divide the length into the same number of equal parts into which the length of the tonnage deck is divided as above directed ; measure (also at the middle of its height) the inside breadth of the space at each of the points of division, also the breadth of the stem and the breadth at the stern ; number them successively, 1, 2, 3, &c., commencing at the stem ; multiply the second and all the other even numbered breadths by four, and the third and all the other odd numbered breadths (except the first and last) by two ; to the sum of these products add the first and last breadths ; multiply the whole sum by one third of the common interval between the breadths, and the result will give in superficial feet the mean horizontal area of such space ; measure the mean height of such space, and multiply by it the mean horizontal area, and the product will be the cubical contents of the space : divide this product by one hundred, and the quotient shall be deemed to be the tonnage of such space, and shall be added to the other tonnage of the ship ascertained as aforesaid ; and if the ship has more than three decks, the tonnage of each space between decks above the tonnage deck shall be severally ascertained in manner above described, and shall be added to the tonnage of the ship ascertained as aforesaid.

RULE II.

22. Ships which, requiring to be measured for any purpose other than registry, have cargo on board, and ships which, requiring to be measured for the purpose of registry, cannot be measured by the rule above given, shall be measured by the following rule, hereinafter called Rule II. :

For ships not requiring registry with cargo on board.

- (1.) Measure the length on the upper deck from the outside of the outer plank at the stem to the aftside of the stern post, deducting therefrom the distance between the aftside of the stern post and the rabbet of the stern post at the point where the counter plank crosses it ; measure also the greatest breadth of the ship to the outside of the outer planking or Wales, and then, having first marked on the outside of the ship on both sides thereof the height of the upper deck at the ship's sides, girt the ship at the greatest breadth in a direction perpendicular to the keel from the height so marked on the outside of the ship on the one side to the height so marked on the other side by passing a chain under the keel ; to Half the girth thus taken add half the main breadth ; square the sum ; multiply the result by the length of the ship taken as aforesaid ; then multiply this product by the factor .0018 (eighteen ten-thousandths) in the case of ships built of wood, and by .0021 (twenty-one ten thousandths) in the case of ships built of iron, and the product shall be deemed

Length.

Breadth.

Girting of the ship.

deemed the register tonnage of the ship subject to the additions and deductions hereinafter mentioned.

Poop and other closed-in spaces on upper deck.

- (2.) If there be a break, a poop, or other closed-in space on the upper deck, the tonnage of such space, shall be ascertained by multiplying together the mean length, breadth, and depth of such space, and dividing the product by 100, and the quotient so obtained shall be deemed to be the tonnage of such space, and shall, subject to the deduction for a closed-in space appropriated to the crew as mentioned in rule I., be added to the tonnage of the ship ascertained as aforesaid.

RULE III.

Allowance for engine room in steamers.

- 23.** In every ship propelled by steam or other power requiring engine room, an allowance shall be made for the space occupied by the propelling power, and the amount so allowed shall be deducted from the gross tonnage of the ship ascertained as aforesaid, and the remainder shall be deemed to be the register tonnage of such ship; and such deduction shall be estimated as follows: (that is to say,)

To be rateable in ordinary steamers.

- (a.) As regards ships propelled by paddle wheels in which the tonnage of the space solely occupied by and necessary for the proper working of the boilers and machinery is above twenty per cent. and under thirty per cent. of the gross tonnage of the ship, such deduction shall be thirty-seven one-hundredths of such gross tonnage; and in ships propelled by screws in which the tonnage of such space is above thirteen per cent. and under twenty per cent. of such gross tonnage, such deduction shall be thirty-two one-hundredths of such gross tonnage:

May be measured where the space is unusually large or small.

- (b.) As regards all other ships, the deduction shall, if the commissioners of customs and the owner both agree thereto, be estimated in the same manner; but either they or he may in their or his discretion require the space to be measured and the deduction estimated accordingly; and whenever such measurement is so required the deduction shall consist of the tonnage of the space actually occupied by or required to be inclosed for the proper working of the boilers and machinery, with the addition in the case of ships propelled by paddle wheels of one half, and in the case of ships propelled by screws of three fourths of the tonnage of such space, and the measurement and use of such space shall be governed by the following rules; (that is to say,)

Mode of measurement.

- (1.) Measure the mean depth of the space from its crown to the ceiling at the limber strake, measure also three or, if necessary, more than three breadths of the space at the middle of its depth, taking one of such measurements at each

each end, and another at the middle of the length ; take the mean of such breadths ; measure also the mean length of the space between the foremost and aftermost bulk-heads or limits of its length, excluding such parts, if any, as are not actually occupied by or required for the proper working of the machinery ; multiply together these three dimensions of length, breadth, and depth, and the product will be the cubical contents of the space below the crown ; then find the cubical contents of the space or spaces, if any, above the crown aforesaid, which are framed in for the machinery or for the admission of light and air, by multiplying together the length, depth, and breadth thereof ; add such contents to the cubical contents of the space below the crown ; divide the sum by 100 ; and the result shall be deemed to be the tonnage of the said space :

- (2.) If in any ship in which the space aforesaid is to be measured the engines and boilers are fitted in separate compartments, the contents of each shall be measured severally in like manner, according to the above rules, and the sum of their several results shall be deemed to be the tonnage of the said space : In case of separate compartments.
- (3.) In the case of screw steamers in which the space aforesaid is to be measured, the contents of the shaft trunk shall be added to and deemed to form part of such space, and shall be ascertained by multiplying together the mean length, breadth, and depth of the trunk, and dividing the product by 100 : Shaft Trunk of screw steamer.
- (4.) If in any ship in which the space aforesaid is to be measured any alteration be made in the length or capacity of such space, or if any cabins be fitted in such space, such ship shall be deemed to be a ship not registered until remeasurement : Alteration of engine room.
- (5.) If in any ship in which the space aforesaid is to be measured any goods or stores are stowed or carried in such space, the master and owner shall each be liable to a penalty not exceeding one hundred pounds. Penalty for carrying goods in such space.

(See Imp. Act 35 & 36 Vict., c. 73, by which the duties of the Commissioners of Customs, with respect to the measurement of ships, are transferred, to the Board of Trade.)

RULE IV.

24. In ascertaining the tonnage of open ships the upper edge of the upper strake is to form the boundary line of measurement, and the depths shall be taken from an athwartship line, extended from upper edge to upper edge of the said strake at each division of the length. Open ships how measured.

(Sec. 25 provided that in every registered British ship the number denoting the registered tonnage should be carved on her main

main beam, but is repealed by Imp. Act 34 & 35 Vict., c. 110, and other provision is made as to the same subject by section 4 of that Act, and by Imp. Act 36 & 37 Vict., c. 85, sec. 3.)

Tonnage when once ascertained to be ever after deemed the tonnage.

26. Whenever the tonnage of any ship has been ascertained and registered in accordance with the provisions of this Act, the same shall thenceforth be deemed to be the tonnage of such ship, and be repeated in every subsequent registry thereof, unless any alteration is made in the form or capacity of such ship, or unless it is discovered that the tonnage of such ship has been erroneously computed; and in either of such cases such ship shall be remeasured, and her tonnage determined and registered according to the rules hereinbefore contained in that behalf.

Remeasurement of ships already registered may be made but not to be compulsory.

27. The rules for the measurement of tonnage herein contained shall not make it necessary to alter the present registered tonnage of any *British* ship registered before this Act comes into operation; but if the owner of any such ship desires to have the same remeasured according to such rules, he may apply to the commissioners of customs for the purpose, and such commissioners shall thereupon, and on payment of such reasonable charge for the expenses of remeasurement, not exceeding the sum of seven shillings and sixpence for each transverse section, as they may authorize, direct such remeasurement to be made, and such ship shall thereupon be remeasured according to such rules as aforesaid, or according to such of them as may be applicable; and the number denoting the registered tonnage shall be altered accordingly.

Power to remeasure engine rooms improperly extended.

28. If it appears to the commissioners of customs that in any steamship measured before this Act comes into operation store rooms or coal bunkers have been introduced into or thrown across the engine room, so that the deduction from the tonnage on account of the engine room is larger than it ought to be, the said commissioners may, if they think fit, direct such engine room to be remeasured according to the rules in force before this Act comes into operation, excluding the space occupied by such store rooms or coal bunkers, or may, if the owners so desire, cause the ship to be remeasured according to the rules hereinbefore contained, and subject to the conditions contained in the last preceding section; and after remeasurement the said commissioners shall cause the ship to be registered anew, or the registry thereof to be altered as the case may require.

Officers may be appointed and regulations made for measurement of ships.

29. The commissioners of customs may, with the sanction of the treasury, appoint such persons to superintend the survey and admeasurement of ships as they think fit; and may, with the approval of the board of trade, make such regulations for that purpose as may be necessary; and also,

also, with the like approval, make such modifications and alterations as from time to time become necessary in the tonnage rules hereby prescribed, in order to the more accurate and uniform application thereof, and the effectual carrying out of the principle of admeasurement therein adopted.

Registry of British Ships.

30. The following persons are required to register *British ships*, and shall be deemed registrars for the purposes of this Act ; (that is to say,) Registrars of British Ships.

(The sub sections 1, 2, 3, 4, and 5 of this section named the officers who should be registrars of shipping in the British Possessions therein mentioned, but do not refer to Canada.)

(6.) At every other port or place so approved as aforesaid within Her Majesty's Dominions abroad, the collector, comptroller, or other principal officer of customs or of navigation laws, or if there is no such officer resident at such port or place, the Governor, Lieutenant Governor, or other person administering the government of the Possession in which such port or place is situate.

(But see Dom. Act 36 Vict., c. 128, s. 10.)

31. The Governor, Lieutenant Governor, or other person administering the government in any *British Possession* where any ship is registered under the authority of this Act shall, with regard to the performance of any act or thing relating to the registry of a ship or of any interest therein, be considered in all respects as occupying the place of the commissioners of customs; and any *British* consular officer shall, in any place where there is no justice of the peace, be authorized to take any declaration hereby required or permitted to be made in the presence of a justice of the peace. Substitution of Governor abroad for Commissioners of Customs, and of Consul for Justice.

32. Every registrar shall keep a book, to be called "The Register Book," and enter therein the particulars hereinafter required to be registered. Registrar to keep Register Books.

33. The port or place at which any *British* ship is registered for the time being shall be considered her port of registry or the port to which she belongs. Port of Registry of British Ship.

34. The following rules shall be observed with respect to the names of *British* registered ships ; (that is to say,) Name of Ship

(1.) Before registry the name of each ship and of the port to which she belongs shall be painted on a conspicuous part of her stern on a dark ground in white or yellow letters of a length not less than four inches :

(See

(See Imp. Act 18 & 19 Vict., c. 91, s. 13, and Dom. Act 36 Vict., c. 128, s. 22.)

- (2.) No change shall be made in the name of any registered ship :
- (3.) No concealment, absence, or avoidable obliteration of the the above names shall be permitted, except for the purpose of escaping capture by an enemy :
- (4.) The ship shall not be described by or with the knowledge of the owner or master by any name other than the one by which she is registered :

And for every breach of the above rules, or any of them, the owner and master shall each incur a penalty not exceeding one hundred pounds.

(Further provision is made with reference to the subject of this section by Imp. Acts 18 & 19 Vict., c. 91, s. 13, 34 & 35 Vict., c. 110, s.s. 4 & 6, and 35 & 36 Vict. c. 73. s. 3 ; and see Dom. Act 36 Vict., c. 128, s. 22, as to the rules to be observed with respect to the names of ships registered in Canada.)

**Application
for Registry
by whom to
be made.**

35. Every application for the registry of a ship shall in the case of individuals be made by the person requiring to be registered as owner, or by some one or more of such persons if more than one, or by his or their duly authorized agent, and in the case of bodies corporate by their duly authorized agent ; the authority of such agent, if appointed by individuals, to be testified by some writing under the hands of the appointors, and if appointed by a body corporate, by some instrument under the common seal of such body corporate.

Survey of Ship.

36. Before registry, the ship shall be surveyed by a person duly appointed under this Act ; and such surveyor shall grant a certificate in the form marked A in the schedule hereto, specifying her tonnage, build, and such other particulars descriptive of the identity of the ship as may from time to time be required by the board of trade ; and such certificate shall be delivered to the registrar before registry.

**Rules as to
Entries in
Registry Book.**

37. The following rules shall be observed with respect to entries in the register book ; (that is to say,)

- (1.) The property in a ship shall be divided into sixty-four shares :
- (2.) Subject to the provisions with respect to joint owners or owners by transmission hereinafter contained, not more than thirty-two individuals shall be entitled to be registered

tered at the same time as owners of any one ship ; but this rule shall not affect the beneficial title of any number of persons or of any company represented by, or claiming under or through any registered owner or joint owner :

- (3.) No person shall be entitled to be registered as owner of any fractional part of a share in a ship ; but any number of persons, not exceeding five, may be registered as joint owners of a ship or of a share or shares therein :
- (4.) Joint owners shall be considered as constituting one person only as regards the foregoing rule relating to the number of persons entitled to be registered as owners, and shall not be entitled to dispose in severalty of any interest in any ship or in any share or shares therein in respect of which they are registered :
- (5.) A body corporate may be registered as owner by its corporate name.

38. No person shall be entitled to be registered as owner of a ship or any share therein until he has made and subscribed a declaration in the form marked B. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars ; (that is to say,) Declaration of ownership by individual owner.

- (1.) A statement of his qualification to be an owner of a share in a *British Ship* :
- (2.) A statement of the time when and the place where such ship was built, or (if the ship is foreign-built, and the time and place of building not known) a statement that she is foreign-built, and that he does not know the time or place of her building ; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or (in the case of a ship condemned) a statement of the time, place, and court at and by which she was condemned :
- (3.) A statement of the name of the master :
- (4.) A statement of the number of shares in such ship of which he is entitled to be registered as owner :
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein :

The above declaration of ownership shall be made and subscribed in the presence of the registrar if the declarant reside within

within five miles of the custom house of the port of registry, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Declaration of
ownership by
body corpo-
rate.

39. No body corporate shall be entitled to be registered as owner of a ship or of any share therein until the secretary or other duly appointed public officer of such body corporate has made and subscribed in the presence of the registrar of the port of registry a declaration in the form marked C. in the schedule hereto, referring to the ship as described in the certificate of the surveyor, and containing the following particulars; (that is to say,)

- (1.) A statement of such circumstances of the constitution and business of such body corporate as prove it to be qualified to own a *British* ship :
- (2.) A statement of the time when and the place where such ship was built, or, (if the ship is foreign-built, and the time and place of building unknown,) a statement that she is foreign-built, and that he does not know the time or place of her building; and, in addition thereto, in the case of a foreign ship, a statement of her foreign name, or, (in the case of a ship condemned,) a statement of the time, place, and court at and by which she was condemned :
- (3.) A statement of the name of the master :
- (4.) A statement of the number of shares in such ship of which such body corporate is owner :
- (5.) A denial that, to the best of his knowledge and belief, any unqualified person or body of persons is entitled as owner to any legal or beneficial interest in such ship or any share therein :

Evidence to be
produced on
registry.

40. Upon the first registry of a ship there shall, in addition to the declaration of ownership, be produced the following evidence; (that is to say,)

- (1.) In the case of a *British*-built ship, a certificate, (which the builder is hereby required to grant under his hand), containing a true account of the proper denomination and of the tonnage of such ship as estimated by him, and of the time when and of the place where such ship was built, together with the name of the party, (if any), on whose account he has built the same, and, if any sale or sales have taken place, the bill or bills of sale under which the ship or share therein has become vested in the party requiring to be registered as owner :

(2.)

- (2.) In the case of a foreign-built ship, the same evidence as in the case of a *British*-built ship, unless the person requiring to be registered as owner, or, in the case of a body corporate, the duly appointed officer, declares that the time or place of her building is unknown, or that the builder's certificate cannot be procured, in which case there shall be required only the bill or bills of sale under which the ship or share therein became vested in the party requiring to be registered as owner thereof :
- (3.) In the case of a ship condemned by any competent court, an official copy of the condemnation of such ship.

(*See Dom. Stat. 36 Vict., c. 128, s. 13.*)

41. If any builder wilfully makes a false statement in any certificate hereby required to be granted by him, he shall, for every such offence, incur a penalty not exceeding one hundred pounds. Penalty on builder for false certificate.

(*And see Imp. Act 18 & 19 Vict., c. 91, s. 9*)

42. As soon as the foregoing requisites to the due registry of a ship have been complied with, the registrar shall enter in the register book the following particulars relating to such ship ; (that is to say,) Particulars of Entry in Register Book

- (1.) The name of the ship and the port to which she belongs :
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor :
- (3.) The several particulars as to her origin stated in the declaration of ownership :
- (4.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are interested in such ship.

43. No notice of any trust, express, implied, or constructive, shall be entered in the register book, or receivable by the registrar ; and, subject to any rights and powers appearing by the register book to be vested in any other party, the registered owner of any ship or share therein shall have power absolutely to dispose in manner hereinafter mentioned of such ship or share, and to give effectual receipts for any money paid or advanced by way of consideration. No notice taken of Trusts.

(*But see Imp. Act 25 & 26 Vict., c. 63, s. 3.*)

Certificate

Certificate of Registry.

Certificate of
Registry to be
granted.

44. Upon the completion of the registry of any ship the registrar shall grant a certificate of registry in the form marked D. in the schedule hereto, comprising the following particulars ; (that is to say,)

- (1.) The name of the ship and of the port to which she belongs :
- (2.) The details as to her tonnage, build, and description comprised in the certificate hereinbefore directed to be given by the surveyor :
- (3.) The name of her master :
- (4.) The several particulars as to her origin stated in the declaration or declarations of ownership :
- (5.) The names and descriptions of her registered owner or owners, and if there is more than one such owner, the proportions in which they are respectively interested, indorsed upon such certificate.

(See Imp. Act 31 & 32 Vict., c. 129, as to the grant of terminable certificates of registry in the colonies.)

Change of
owners to be
indorsed on
certificate of
registry.

45. Whenever any change takes place in the registered ownership of any ship, then, if such change occurs at a time when the ship is at her port of registry, the master shall forthwith deliver the certificate of registry to the registrar, and he shall endorse thereon a memorandum of such change ; but if such change occurs during the absence of the ship from her port of registry, then upon her first return to such port the master shall deliver the certificate of registry to the registrar, and he shall endorse thereon a like memorandum of the change ; or if she previously arrives at any port where there is a *British* registrar, such registrar shall, upon being advised by the registrar of her port of registry of the change having taken place, endorse a like memorandum thereof on the certificate of registry, and may for that purpose require the certificate to be delivered to him, so that the ship be not thereby detained ; and any master who fails to deliver to the registrar the certificate of registry as hereinbefore required shall incur a penalty not exceeding one hundred pounds.

Change of
master to be
indorsed on
certificate of
registry.

46. Whenever the master of any *British* registered ship is changed, the following persons, that is to say, if such change is made in consequence of the sentence of any naval court, the presiding officer of such court, but if the change takes place from any other cause, the registrar, or, if there is

no

no registrar, the *British* consular officer resident at the port where such change takes place, shall indorse on the certificate of registry a memorandum of such change, and subscribe his name to such indorsement, and forthwith report the change of master to the commissioners of customs in *London*; and the officers of customs at any port situate within Her Majesty's Dominions may refuse to admit any person to do any act at such port as master of any *British* ship, unless his name is inserted in or indorsed upon the certificate of registry of such ship as the last appointed master thereof.

(*Imp. Act 35 & 36 Vict., c. 73, s. 4, provides that this section shall be read and construed as if the Registrar General of Seamen were therein named, instead of the Commissioners of Customs; and see Dom. Stat. 36 Vict., c. 128, ss. 18, 19, and 20.*)

47. The registrar may, with the sanction of the commissioners of customs, upon the delivery up to him of the former certificate of registry, grant a new certificate in the place of the one so delivered up.

Power to grant new certificate.

48. In the event of the certificate of registry of any ship being mislaid, lost or destroyed, if such event occurs at any port in the United Kingdom, the ship being registered in the United Kingdom, or at any port in any *British* Possession the ship being registered in the same *British* Possession, then the registrar of her port of registry shall grant a new certificate of registry in lieu of, and as a substitute for her original certificate of registry; but if such event occurs elsewhere, the master or some other person having knowledge of the circumstances shall make a declaration before the registrar of any port having a *British* registrar at which such ship is at the time or first arrives after such mislaying, loss, or destruction; and such declaration shall state the facts of the case, and the names and descriptions of the registered owners of such ship, to the best of declarant's knowledge and belief; and the registrar shall thereupon grant a provisional certificate, as near to the form appointed by this Act as circumstances permit, and shall insert therein a statement of the circumstances under which such provisional certificate is granted.

Provision in case of loss of certificate.

(*But see Dom. Stat. 36 Vict., c. 128, s. 15.*)

49. Every such provisional certificate shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or if registered elsewhere, at her port of discharge in the *British* Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon grant a new one, as near to the form appointed by this Act as circumstances permit; and if the master

Provisional certificate to be delivered up.

master neglects to deliver up such certificate within such time he shall incur a penalty not exceeding fifty pounds.

Custody of
certificate.

Delivery of
certificate may
be required.

Penalty for
detention.

Mode of pro-
ceeding, if
detaining par-
ty abscond.

Penalty for
using impro-
per certificate.

50. The certificate of registry shall be used only for the lawful navigation of the ship, and shall not be subject to detention by reason of any title, lien, charge, or interest whatsoever which any owner, mortgagee, or other person may have or claim to have on or in the ship described in such certificate: And if any person whatever, whether interested or not in the ship, refuses, on request, to deliver up such certificate when in his possession or under his control to the person for the time being entitled to the custody thereof for the purposes of such lawful navigation as aforesaid, or to any registrar, officer of the customs, or other person legally entitled to require such delivery, it shall be lawful for any justice, by warrant under his hand and seal, or for any court capable of taking cognizance of such matter, to cause the person so refusing to appear before him and to be examined touching such refusal: And unless it is proved to the satisfaction of such justice or court that there was reasonable cause for such refusal, the offender shall incur a penalty not exceeding one hundred pounds; but if it is made to appear to such justice or court that the certificate is lost, the party complained of shall be discharged, and such justice or court shall thereupon certify that the certificate of registry is lost.

51. If the person charged with such detainer or refusal is proved to have absconded, so that the warrant of the justice or process of the court cannot be served upon him, or if he persists in his refusal to deliver the certificate, such justice or court shall certify the fact, and the same proceedings may then be taken as in the case of a certificate of registry mislaid, lost, or destroyed, or as near thereto as circumstances permit.

52. If the master or owner of any ship uses or attempts to use for the navigation of such ship a certificate of registry not legally granted in respect of such ship, he shall be guilty of a misdemeanor, and it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any *British* officer of customs, or any *British* consular officer, to seize and detain such ship, and to bring her for adjudication before the High Court of Admiralty in *England* or *Ireland* or any court having admiralty jurisdiction in Her Majesty's Dominions; and if such court is of opinion that such use or attempt at use has taken place, it shall pronounce such ship, with her tackle, apparel, and furniture to be forfeited to Her Majesty, and may award such portion of the proceeds arising from the sale of such ship as it may think just to the officer so bringing in the same for adjudication.

53. If any registered ship is either actually or constructively lost, taken by the enemy, burnt, or broken up, or if by reason of a transfer to any persons not qualified to be owners of *British* ships, or any other matter or thing, any such ship as aforesaid ceases to be a *British* ship, every person who at the time of the occurrence of any of the aforesaid events owns such ship or any share therein shall, immediately upon obtaining knowledge of any such occurrence, if no notice thereof has already been given to the registrar at the port of registry of such ship, give such notice to him, and he shall make an entry thereof in his register book; and except in cases where the certificate of registry is lost or destroyed, the master of every ship so circumstanced as aforesaid shall immediately, if such event occurs in port, but if the same occurs elsewhere, then within ten days after his arrival in port, deliver the certificate of registry to the registrar, or, if there be no registrar, to the *British* consular officer at such port, and such registrar, if he is not himself the registrar of her port of registry, or such *British* consular officer, shall forthwith forward the certificate so delivered to him to the registrar of the port of registry of the ship; and every owner and master who, without reasonable cause, makes default in obeying the provisions of this section shall for each offence incur a penalty not exceeding one hundred pounds.

Certificate of
ship lost or
ceasing to be
British to be
delivered up.

(But see *Dom. Stat. 36 Vict., c. 128, ss. 23 and 24.*)

54. If any ship becomes the property of persons qualified to be owners of *British* ships at any foreign port, the *British* consular officer resident at such port may grant the master of such ship, upon his application, a provisional certificate, stating—

Provisional
certificate for
ship becoming
vested in *British*
owners at
foreign port.

The name of the ship;

The time and place of her purchase, and the names of her purchasers;

The name of her master;

The best particulars as to her tonnage, build, and description that he is able to obtain.

And he shall forward a copy of such certificate, at the first convenient opportunity, to the commissioners of customs in *London*: The certificate so granted shall possess the same force as a certificate of registry until the expiration of six months, or until such earlier time as the ship arrives at some port where there is a *British* registrar; but upon the expiration of such period, or upon arrival at such port, shall be void to all intents.

(The

(*The Registrar General of Seamen is substituted for the Commissioner of Customs in this section by Imp. Act 35 & 36 Vict., c. 73, s. 4.*)

Transfers and Transmissions.

Transfer of
ships or shares
therein.

55. A registered ship or any share therein, when disposed of to persons qualified to be owners of *British* ships, shall be transferred by bill of sale; and such bill of sale shall contain such description of the ship as is contained in the certificate of the surveyor, or such other description as may be sufficient to identify the ship to the satisfaction of the registrar, and shall be according to the form marked E. in the schedule hereto, or as near thereto as circumstances permit, and shall be executed by the transferrer in the presence of, and be attested by, one or more witnesses.

Declaration to
be made by
transferree.

56. No individual shall be entitled to be registered as transferee of a ship or any share therein until he has made a declaration in the form marked F. in the schedule hereto, stating his qualification to be registered as owner of a share in a *British* ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership by an original owner; and no body corporate shall be entitled to be registered as transferee of a ship or any share therein until the secretary or other duly appointed public officer of such body corporate has made a declaration in the form marked G. in the schedule hereto, stating the name of such body corporate, and such circumstances of its constitution and business as may prove it to be qualified to own a *British* ship, and containing a denial similar to the denial hereinbefore required to be contained in a declaration of ownership made on behalf of a body corporate: In the case of an individual, the above declaration shall be made, if he reside within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace; in the case of a body corporate the declaration shall be made in the presence of the registrar of the port of registry.

Registration
of transfer.

57. Every bill of sale for the transfer of any registered ship, or of any share therein, when duly executed, shall be produced to the registrar of the port at which the ship is registered, together with the declaration hereinbefore required to be made by a transferee; and the registrar shall thereupon enter in the register book the name of the transferee as owner of the ship or share comprised in such bill of sale, and shall indorse on the bill of sale the fact of such entry having been made, with the date and hour thereof; and all bills of sale of any ship or shares in a ship shall be entered in the register book in the order of their production to the registrar.

58. If the property in any ship or in any share therein becomes transmitted in consequence of the death, or bankruptcy or insolvency of any registered owner, or in consequence of the marriage of any female registered owner, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such property has been transmitted, made in the form marked H. in the schedule hereto, and containing the several statements hereinbefore required to be contained in the declaration of a transferee, or as near thereto as circumstances permit, and, in addition, a statement describing the manner in which, and the party to whom such property has been transmitted; and such declaration shall be made and subscribed if the declarant resides at or within five miles of the custom house of the port of registry in the presence of the registrar, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Transmission
of shares by
death, bank-
ruptcy or
marriage.

59. If such transmission has taken place by virtue of the bankruptcy or insolvency of any registered owner, the said declaration shall be accompanied by such evidence as may for the time being be receivable in courts of Justice as proof of the title of parties claiming under any bankruptcy or insolvency; and if such transmission has taken place by virtue of the marriage of a female owner, the said declaration shall be accompanied by a copy of the register of such marriage or other legal evidence of the celebration thereof, and shall declare the identity of the said female owner; and if such transmission has taken place by virtue of any testamentary instrument or by intestacy, then in *England, Wales, and Ireland*, the said declaration shall be accompanied by the probate of the will or the letters of administration or an official extract therefrom, and in *Scotland* or in any *British Possession* by the will or any copy thereof that may be evidence by the laws of *Scotland* or of such possession, or by letters of administration, or any copy thereof, or by such other document as may by the laws of *Scotland* or of such possession be receivable in the courts of judicature thereof as proof of the person entitled upon an intestacy.

Proof of trans-
mission by
bankruptcy,
marriage, will,
or on intestacy.

60. The registrar, upon the receipt of such declaration so accompanied as aforesaid, shall enter the name or names of the person or persons entitled under such transmission in the register book as owner or owners of the ship or share therein in respect of which such transmission has taken place; and such persons if more than one, shall, however numerous, be considered as one person only as regards the rule hereinbefore contained relating to the number of persons entitled to be registered as owners.

Registration
of transmitted
share.

61. Of the documents hereby required to be produced to the registrar, he shall retain in his possession the following;
that

Registrar to
retain certain
evidence.

that is to say, the surveyor's certificate, the builder's certificate, the copy of the condemnation, and all declarations of ownership.

Unqualified owner entitled by transmission may apply to courts for sale of ship.

62. Whenever any property in a ship or share in a ship becomes vested by transmission on the death of any owner or on the marriage of any female owner in any person not qualified to be an owner of *British* ships, it shall be lawful, if such ship is registered in *England* or *Ireland*, for the Court of Chancery, if in *Scotland*, for the Court of Session, or if in any *British* Possession, for any court possessing the principal civil jurisdiction within such possession, upon an application made by or on behalf of such unqualified person, to order a sale to be made of the property so transmitted, and to direct the proceeds of such sale, after deducting the expenses thereof, to be paid to the person entitled under such transmission, or otherwise as the court may direct; and it shall be in the discretion of any such court as aforesaid to make or refuse any such order for sale, and to annex thereto any terms or conditions, and to require any evidence in support of such application it may think fit, and generally to act in the premises in such manner as the justice of the case requires.

Order to be made by court

63. Every order for a sale made by such court as aforesaid shall contain a declaration vesting the right to transfer the ship or share so to be sold in some person or persons named by the court, and such nominee or nominees shall thereupon be entitled to transfer such ship or share in the same manner, and to the same extent, as if he or they were the registered owner or owners of the same; and every registrar shall obey the requisition of such nominee or nominees as aforesaid in respect of any transfer to the same extent as he would be compellable to obey the requisitions of any registered owner or owners of such ship or share.

Limit of time for application.

64. Every such application as aforesaid for sale shall be made within four weeks after the occurrence of the event on which such transmission has taken place, or within such further time as such court as aforesaid may allow, such time not in any case to exceed the space of one year from the time of such occurrence as aforesaid; and in the event of no such application being made within such period as aforesaid, or of such court refusing to accede thereto, the ship or share so transmitted shall thereupon be forfeited in manner hereinafter directed with respect to interests acquired by unqualified owners in ships using a *British* flag and assuming the *British* character.

Power of courts to prohibit transfers.

65. It shall be lawful, in *England* or *Ireland*, for the Court of Chancery, in *Scotland*, for the Court of Sessions, in any *British* Possession, for any court possessing the principal civil jurisdiction within such possession, without prejudice to the exercise

exercise of any other power such court may possess, upon the summary application of any interested person made either by petition or otherwise, and either *ex parte* or upon service of notice on any other person, as the court may direct, to issue an order prohibiting for a time to be named in such order any dealing with such ship or share; and it shall be in the discretion of such court to make or refuse any such order, and to annex thereto any terms or conditions it may think fit, and to discharge such order when granted with or without costs, and generally to act in the premises in such as the justice of the case requires; and every registrar without being made a party to the proceedings, upon being served with such order, or an official copy thereof shall obey the same.

Mortgages.

(*See Dom. Stat. 36 Vict., c. 128, part 3, as to security for advances on ships about to be built or in course of construction.*)

66. A registered ship or any share therein may be made a security for a loan or other valuable consideration; and the instrument creating such security, hereinafter termed a "Mortgage," shall be in the form marked I. in the schedule hereto, or as near thereto as circumstances permit; and on the production of such instrument the registrar of the port at which the ship is registered shall record the same in the register book.

Mortgage of ships and shares therein.

67. Every such mortgage shall be recorded by the registrar in the order of time in which the same is produced to him for that purpose; and the registrar shall, by memorandum under his hand, notify on the instrument of mortgage that the same has been recorded by him, stating the date and hour of such record.

Mortgages to be registered in order of time of production.

68. Whenever any registered mortgage has been discharged, the registrar shall, on the production of the mortgage deed, with a receipt for the mortgage money endorsed thereon, duly signed and attested, make an entry in the register book to the effect that such mortgage has been discharged; and upon such entry being made the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had ever been made.

Entry of discharge of mortgage.

69. If there is more than mortgage registered of the same ship or share therein, the mortgagee shall, notwithstanding any express, implied, or constructive notice, be entitled in priority one over the other according to the date at which each instrument is recorded in the register books, and not according to the date of each instrument itself.

Priority of mortgages.

Mortgagee not to be deemed owner.

70. A mortgagee shall not by reason of his mortgage be deemed to be the owner of a ship or any share therein, nor shall the mortgagor be deemed to have ceased to be owner of such mortgaged ship or share, except in so far as may be necessary for making such ship or share available as security for the mortgage debt.

Mortgagee to have power of sale.

71. Every registered mortgagee shall have power absolutely to dispose of the ship or share in respect of which he is registered, and to give effectual receipts for the purchase money; but if there are more persons than one registered as mortgagees of the same ship or share, no subsequent mortgagee shall, except under the order of some court capable of taking cognizance of such matters, sell such ship or share without the concurrence of every prior mortgagee.

Rights of mortgagee not affected by any Act of bankruptcy of mortgagor.

72. No registered mortgage of any ship or of any share therein shall be affected by any act of bankruptcy committed by the mortgagor after the date of the record of such mortgage, notwithstanding such mortgagor at the time of his becoming bankrupt may have in his possession and disposition and be reputed owner of such ship or share thereof; and such mortgage shall be preferred to any right, claim, or interest in such ship or any share thereof which may belong to the assignees of such bankrupt.

Transfer of mortgages.

73. A registered mortgage of any ship or share in a ship may be transferred to any person, and the instrument creating such transfer shall be in the form marked K. in the schedule hereto, and on the production of such instrument the registrar shall enter in the register book the name of the transferee as mortgagee of the ship or shares therein mentioned, and shall by memorandum under his hand record on the instrument of transfer that the same has been recorded by him, stating the date and hour of such record.

Transmission of interest of mortgagee by death, bankruptcy, or marriage.

74. If the interest of any mortgagee in any ship or in any share therein becomes transmitted in consequence of death, bankruptcy, or insolvency, or in consequence of the marriage of any female mortgagee, or by any lawful means other than by a transfer according to the provisions of this Act, such transmission shall be authenticated by a declaration of the person to whom such interest has been transmitted made in the form marked L. in the schedule hereto, and containing a statement describing the manner in which, and the party to whom, such property has been transmitted; and such declaration shall be made and subscribed, if the declarant resides at or within five miles of the custom house of the port of registry, in the presence of the registrar, but if beyond that distance in the presence of any registrar, or of any justice of the peace, and shall be accompanied by such evidence as is hereinbefore required to authenticate a corresponding transmission of property from one registered owner to another.

75. The registrar, upon the receipt of such declaration and the production of such evidence as aforesaid, shall enter the name of the person or persons entitled under such transmission in the register book as mortgagee or mortgagees of the ship or share in respect of which such transmission has taken place.

Entry of transmitted mortgage.

Certificates of Mortgage and Sale.

76. Any registered owner, if desirous of disposing by way of mortgage or sale of the ship or share in respect of which he is registered at any place out of the country or possession in which the port of registry of such ship is situate, may apply to the registrar, who shall thereupon enable him to do so by granting such certificates as are hereinafter mentioned to be called respectively certificates of mortgage or certificates of sale, according as they purport to give a power to mortgage or a power to sell.

Powers of mortgage and sale may be conferred by certificate.

77. Previously to any certificate of mortgage or sale being granted, the applicant shall state to the registrar, to be by him entered in the register book, the following particulars; (that is to say,)

Requisites for certificates of mortgage and sale.

- (1.) The names of the persons by whom the power mentioned in such certificate is to be exercised, and, in the case of a mortgage, the maximum amount of charge to be created, if it is intended to fix any such maximum, and, in the case of a sale, the minimum price at which a sale is to be made, if it is intended to fix any such minimum:
- (2.) The specific place or places where such power is to be exercised, or if no place be specified, then that it may be exercised anywhere, subject to the provisions hereinafter contained:
- (3.) The limit of time within which such power may be exercised.

78. No certificate of mortgage or sale shall be granted so as to authorize any mortgage or sale to be made—

Restrictions on certificates of mortgage and sale.

At any place within the United Kingdom, if the port of registry of the ship be situate in the United Kingdom; or at any place within the same *British Possession* if the port of registry is situate within a *British Possession*; or,

By any person not named in the certificate.

79. Certificates of mortgage and sale shall be in the forms marked respectively M. and N. in the schedule hereto, and shall

Forms of certificates of mortgage and sale.

shall contain a statement of the several particulars hereinbefore directed to be entered in the register book, and, in addition thereto, an enumeration of any registered mortgages or certificates of mortgage or sale affecting the ships or shares in respect of which such certificates are given.

Rules as to
certificates of
mortgage.

80. The following rules shall be observed as to certificates of mortgage ; (that is to say,)

- (1.) The power shall be exercised in conformity with the directions contained in the certificate :
- (2.) A record of every mortgage made thereunder shall be indorsed thereon by a registrar or *British* consular officer :
- (3.) No mortgage *bond fide* made thereunder shall be impeached by reason of the person by whom the power was given dying before the making of such mortgage :
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no mortgage *bond fide* made to a mortgagee without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :
- (5.) Every mortgage which is so registered as aforesaid on the certificate shall have priority over all mortgages of the same ship or share created subsequently to the date of the entry of the certificate in the register book ; and if there be more mortgages than one so indorsed the respective mortgagees claiming thereunder shall, notwithstanding any express, implied, or constructive notice, be entitled one before the other, according to the date at which a record of each instrument is indorsed on the certificate, and not according to the date of the instrument creating the mortgage :
- (6.) Subject to the foregoing rules every mortgagee whose mortgage is registered on the certificate shall have the same rights and powers and be subject to the same liabilities as he would have had and been subject to if his mortgage had been registered in the register book instead of on the certificate :
- (7.) The discharge of any mortgage so registered on the certificate may be endorsed thereon by any registrar or *British* consular officer, upon the production of such evidence as is hereby required to be produced to the registrar on the entry of the discharge of a mortgage in the
register

register book ; and upon such endorsement being made, the estate, if any, which passed to the mortgagee shall vest in the same person or persons in whom the same would, having regard to intervening acts and circumstances, if any, have vested if no such mortgage had been made :

- (8.) Upon the delivery of any certificate of mortgage to the registrar by whom it was granted he shall, after recording in the register book in such manner as to preserve its priority any unsatisfied mortgage registered thereon, cancel such certificate, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

81. The following rules shall be observed as to certificates of sale ; (that is to say,) Rules as to certificates of sale.

- (1.) No such certificate shall be granted except for the sale of an entire ship :
- (2.) The power shall be exercised in conformity with the directions contained in the certificate :
- (3.) No sale *bond fide* made to a purchaser for valuable consideration shall be impeached by reason of the person by whom the power was given dying before the making of such sale :
- (4.) Whenever the certificate contains a specification of the place or places at which, and a limit of time not exceeding twelve months within which, the power is to be exercised, no sale *bond fide* made to a purchaser for valuable consideration without notice shall be impeached by reason of the bankruptcy or insolvency of the person by whom the power was given :
- (5.) Any transfer made to a person qualified to be the owner of *British* ships shall be by bill of sale in the form hereinbefore mentioned, or as near thereto as circumstances permit :
- (6.) If the ship is sold to a party qualified to hold *British* ships, the ship shall be registered anew ; but notice of all mortgages enumerated on the certificate of sale shall be entered in the register book :
- (7.) Previously to such registry anew there shall be produced to the registrar required to make the same the bill of sale by which the ship is transferred, the certificate of sale and the certificate of registry of such ship :

(8.)

- (8.) Such last mentioned registrar shall retain the certificates of sale and registry, and after having indorsed on both of such instruments an entry of the fact of a sale having taken place, shall forward the said certificates to the registrar of the port appearing on such certificates to be the former port of registry of the ship, and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered as closed, except as far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein :
- (9.) On such registry anew the description of the ship contained in her original certificate of registry may be transferred to the new register book, without her being re-surveyed, and the declaration to be made by the purchaser shall be the same as would be required to be made by an ordinary transferee :
- (10.) If the ship is sold to a party not qualified to be the owner of a *British* ship, the bill of sale by which the ship is transferred, the certificate of sale, and the certificate of registry shall be produced to some registrar or consular officer, who shall retain the certificates of sale and registry, and having indorsed thereon the fact of such ship having been sold to persons not qualified to be owners of *British* ships, shall forward such certificates to the registrar of the port appearing on such certificate of registry to be the port of registry of such ship ; and such last-mentioned registrar shall thereupon make a memorandum of the sale in his register book, and the registry of the ship in such book shall be considered closed, except so far as relates to any unsatisfied mortgages or existing certificates of mortgage entered therein :
- (11.) If upon a sale being made to an unqualified person default is made in the production of such certificates as are mentioned in the last rule, such unqualified person shall be considered by *British* law as having acquired no title to or interest in the ship ; and further, the party upon whose application such certificate was granted, and the person exercising the power shall each incur a penalty not exceeding one hundred pounds :
- (12.) If no sale is made in conformity with the certificate of sale, such certificate shall be delivered to the registrar by whom the same was granted ; and such registrar shall thereupon cancel it, and enter the fact of such cancellation in the register book ; and every certificate so cancelled shall be void to all intents.

82. Upon proof at any time to the satisfaction of the commissioners of customs that any certificate of mortgage or sale is lost or so obliterated as to be useless, and that the powers thereby given have never been exercised, or if they have been exercised, then upon proof of the several matters and things that have been done thereunder, it shall be lawful for the registrar, with the sanction of the said commissioners as circumstances may require, either to issue a new certificate, or to direct such entries to be made in the register book, or such other matter or thing to be done as might have been made or done if no such loss or obliteration had taken place.

Power of Commissioners of Customs in case of loss of certificate of mortgage or sale.

83. The registered owner for the time being of any ship or share therein in respect of which a certificate of mortgage or sale has been granted, specifying the place or places where the power thereby given is to be exercised, may by an instrument under his hand made in the form O. in the schedule hereto, or as near thereto as circumstances permit, authorize the registrar by whom such certificate was granted to give notice to the registrar or consular officer, registrars or consular officers, at such place or places, that such certificate is revoked; and notice shall be given accordingly; and all registrars or consular officers receiving such notice shall record the same, and shall exhibit the same to all persons who may apply to them for the purpose of effecting or obtaining a mortgage or transfer under the said certificate of mortgage or sale; and after such notice has been so recorded the said certificate shall, so far as concerns any mortgage or sale to be thereafter made at such place, be deemed to be revoked and of no effect; and every registrar or consular officer recording any such notice shall thereupon state to the registrar by whom the certificate was granted, whether any previous exercise of the power to which such certificate refers has taken place.

Revocation of certificates of mortgage and sale.

Registry anew, and Transfer of Registry.

84. Whenever any registered ship is so altered as not to correspond with the particulars relating to her tonnage or description contained in the register book, then, if such alteration is made at a port where there is a registrar, the registrar of such port, but if made elsewhere, the registrar of the first port having a registrar at which the ship arrives after her alteration, shall, on application made to him, and on the receipt of a certificate from the proper surveyor specifying the nature of such alteration, either retain the old certificate of registry and grant a new certificate of registry containing a description of the ship as altered, or indorse on the existing certificate a memorandum of such alteration, and subscribe his name to such indorsement; and the registrar to whom such application as aforesaid is made, if he is the registrar of the port of registry of the ship, shall himself enter

Alteration in ship to be registered.

enter in his register book the particulars of the alteration so made, and the fact of such new certificate having been granted or indorsement having been made on the existing certificate; but if he is not such last-mentioned registrar, he shall forthwith report such particulars and facts as aforesaid, accompanied by the old certificate of registry in cases where a new one has been granted, to the registrar of the port of registry of the ship, who shall retain such old certificate, (if any), and enter such particulars and facts in his register book accordingly.

On alteration
registry anew
may be requir-
ed.

85. When the registrar to whom application is made in respect of any such alteration as aforesaid is the Registrar of the port of registry, he may, if he thinks fit, instead of registering such alteration, require such ship to be registered anew in manner hereinbefore directed on the first registry of a ship, and if he is not such registrar as lastly hereinbefore mentioned he may nevertheless require such ship to be registered anew, but he shall, in such last mentioned case, grant a provisional certificate or make a provisional indorsement of the alteration made in manner hereinbefore directed in cases where no registry anew is required, taking care to add to such certificate or indorsement a statement that the same is made provisionally, and to insert in his report to the registrar of the port of registry of the ship a like statement.

Grant of provi-
sional certifi-
cate in respect
of alteration.

86. Every such provisional certificate, or certificate provisionally indorsed, shall, within ten days after the first subsequent arrival of the ship at her port of discharge in the United Kingdom, if registered in the United Kingdom, or, if registered elsewhere, at her port of discharge in the *British* Possession within which her port of registry is situate, be delivered up to the registrar thereof, who shall thereupon cause such ship to be registered anew in the same manner in all respects as hereinbefore required on the first registry of any ship.

Consequence
of omission to
register anew.

87. On failure of such registry anew of any ship or registry of alteration of any ship so altered as aforesaid, such ship shall be deemed not duly registered, and shall no longer be recognized as a *British* ship.

On change of
owners, regis-
try anew may
be granted, if
required.

88. If upon any change of ownership in any ship the owner or owners desire to have such ship registered anew, although such registry anew is not required by this Act, it shall be lawful for the registrar of the port at which such ship is already registered, on the delivery up to him of the existing certificate of registry, and on the other requisites to registry, or such of them as the registrar thinks material, being duly complied with, to make such registry anew, and grant a certificate thereof.

89. The registry of any ship may be transferred from one port to another upon the application of all parties appearing on the register to be interested in such ship, whether as owners or mortgagees, such application to be expressed by a declaration in writing made and subscribed, if the party so required to make and subscribe the same resides at or within five miles of the custom house of the port from which such ship is to be transferred, in the presence of the registrar of such port, but if beyond that distance in the presence of any registrar or of any justice of the peace.

Registry may be transferred from port to port.

90. Upon such application being made as is hereinbefore mentioned, and upon the delivery to him of the certificate of registry, the registrar of the port at which such ship is already registered shall transmit to the registrar of the port at which such ship is intended to be registered notice of such application having been made to him, together with a true copy of all particulars relating to such ship, and the names of all the parties appearing by his book to be interested as owners or mortgagees in such ship; and such last-mentioned registrar shall, upon the receipt of such notice, enter all such particulars and names in his book of registry, and grant a fresh certificate of registry, and thenceforth such ship shall be considered as registered at and belonging to such last-mentioned port, and the name of such last-mentioned port shall be substituted on the stern of such ship in lieu of the name of the port previously appearing thereon.

Manner of transfer of registry.

(See *Imp. Act 18 & 19 Vict., c. 91, s. 12 post.*)

91. The transfer of the registry of any ship in manner aforesaid shall not in any way affect the rights of the several persons interested either as owners or mortgagees in such ship, but such rights shall in all respects be maintained and continue in the same manner as if no such transfer had been effected.

Transfer of registry not to affect rights of owners.

Registry, Miscellaneous.

92. Every person may, upon payment of a fee to be fixed by the commissioners of customs not exceeding one shilling, have access to the register book for the purpose of inspection at any reasonable time during the hours of official attendance of the registrar.

Inspection of register books.

(*The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post.*)

93. No registrar shall be liable to damages or otherwise for any loss accruing to any person by reason of any act done

Indemnity to registrar.

or

or default made by him in his character of registrar, unless the same has happened through his neglect or wilful act.

Return to be made by registrars to commissioners of customs.

94. Every registrar in the United Kingdom shall at the expiration of every month, and every other registrar shall without delay, or at such stated times as may be fixed by the commissioners of customs, transmit to the custom house in London a full return in such form as they may direct of all registries, transfers, transmissions, mortgages, and other dealings with ships which have been registered by or communicated to them in their character of registrars, and the names of the persons who have been concerned in the same, and such other particulars as may be directed by the said Commissioners.

(The Registrar General of Seamen is substituted for the commissioners of customs in this sec. by Imp. Act 35 & 36 Vict., c. 73, s. 4, post, and the returns required by this sec. to be transmitted to the custom house in London are under that sec. to be transmitted to the Registrar General of Seamen.)

Application of fees.

95. All fees authorized to be taken under the second part of this Act shall, if taken in any part of the United Kingdom, be applied in payment of the general expenses of carrying into effect the purposes of such second part, or otherwise as the treasury may direct, but if taken elsewhere shall be disposed of in such way as the executive government of the British possession in which they are taken may direct.

Commissioners of customs to provide, and with consent of Board of Trade may alter forms and issue instructions.

96. The commissioners of customs shall cause the several forms required or authorized to be used by the second part of this Act, and contained in the schedule hereto, to be supplied to all registrars within Her Majesty's Dominions for distribution to the several persons requiring to use the same, either free of charge, or at such moderate prices as they may from time to time direct, and the said Commissioners, with the consent of the Board of Trade, may from time to time make such alterations in the forms contained in the schedule hereto as it may deem requisite, but shall, before issuing any altered form, give such public notice thereof as may be necessary in order to prevent inconvenience; and the said Commissioners may also, with such consent as aforesaid, for the purposes of carrying into effect the provisions contained in the second part of this Act, give such instructions as to the manner of making entries in the register book, as to the execution and attestation of powers of attorney, as to any evidence to be required for identifying any person, and generally as to any act or thing to be done in pursuance of the second part of this Act, as they may think it.

(See Imp. Act 18 & 19 Vict., c. 91, sec. 11.)

97. Whenever in any case in which under the second part of this Act any person is required to make a declaration on behalf of himself or of any body corporate, or any evidence is required to be produced to the registrar, it is shown to the satisfaction of the registrar that from any reasonable cause such person is unable to make the declaration, or that such evidence cannot be produced, it shall be lawful for the registrar, with the sanction of the commissioners of customs, and upon the production of such other evidence, and subject to such terms as they may think fit, to dispense with any such declaration or evidence.

Power to registrar to dispense with declarations and other evidence.

98. In cases where it appears to the commissioners of customs or to the Governor or other person administering the government of any *British Possession*, that by reason of special circumstances it would be desirable that permission should be granted to any *British* ship to pass, without being previously registered, from one port or place in Her Majesty's Dominions to any other port or place within the same, it shall be lawful for such commissioners or Governor or other person to grant a pass accordingly, and such pass shall for the time and within the limits therein mentioned have the same effect as a certificate of registry.

Power for commissioners or Governor in special cases to grant a pass to a ship not registered.

(See the provision made on this subject by *Dom. Stat.*, 36 *Vict.*, c. 128, s. 9.)

99. If any person interested in any ship or any share therein is, by infancy, lunacy, or other inability, incapable of making any declaration or doing any thing required or permitted by this Act to be made or done by such incapable person in respect of registry, then the guardian or committee, if any, of such incapable person, or, if there be none, any person appointed by any court or judge possessing jurisdiction in respect of property of incapable persons, upon the petition of any person on behalf of such incapable person, or of any other person interested in the making such declaration or doing such thing, may make such declaration, or a declaration as nearly corresponding thereto as circumstances permit, and do such thing in the name and on behalf of such incapable person; and all acts done by such substitute shall be as effectual as if done by the person for whom he is substituted.

Provision for cases of infancy or other incapacity.

100. Whenever any person is beneficially interested, otherwise than by way of mortgage, in any ship or share therein registered in the name of some other person as owner, the person so interested shall, as well as the registered owner, be subject to all pecuniary penalties imposed by this or by any other Act on owners of ships or shares therein, so nevertheless that proceedings may be taken for the enforcement of any such pecuniary penalties against both or either of the aforesaid parties, with or without joining the other of them.

Liabilities of owners.

Forgery.

Forgery.

Punishment
for forgery.

101. Any person who forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any register book, certificate of surveyor, certificate of registry, declaration of ownership, bill of sale, instrument of mortgage, certificate of mortgage or sale, or any entry or indorsement required by the second part of this Act to be made in or on any of the above documents, shall for every such offence be deemed to be guilty of felony.

(See Dom. Stat. 32 & 33 Vict., c. 19, s. 4.)

National Character.

National character of ship to be declared before clearance.

102. No officer of customs shall grant a clearance or *transire* for any ship until the master of such ship has declared to such officer the name of the nation to which he claims that she belongs, and such officer shall thereupon inscribe such name on the clearance or *transire*; and if any ship attempts to proceed to sea without such clearance or *transire*, any such officer may detain her until such declaration is made.

Penalties:

103. The offences hereinafter mentioned shall be punishable as follows; (that is to say,)

For unduly assuming a British character.

(1.) If any person uses the *British* flag and assumes the *British* national character on board any ship owned in whole or in part by any persons not entitled by law to own *British* ships, for the purpose of making such ship appear to be a *British* ship, such ship shall be forfeited to Her Majesty, unless such assumption has been made for the purpose of escaping capture by an enemy or by a foreign ship of war in exercise of some belligerent right; and in any proceeding for enforcing any such forfeiture the burden of proving a title to use the *British* flag and assume the *British* national character shall lie upon the person using and assuming the same:

For concealment of British or assumption of foreign character.

(2.) If the master or owner of any *British* ship does or permits to be done any matter or thing, or carries or permits to be carried any papers or documents, with intent to conceal the *British* character of such ship from any person entitled by *British* law to inquire into the same, or to assume a foreign character, or with intent to deceive any such person as lastly hereinbefore mentioned, such ship shall be forfeited to Her Majesty; and the master, if he commits or is privy to the commission of the offence, shall be guilty of a misdemeanor:

(3.)

- (3.) If any unqualified person, except in the case of such transmitted interests as are hereinbefore mentioned For acquiring ownership if unqualified. acquires as owner any interest, either legal or beneficial, in a ship, using a *British* flag and assuming the *British* character, such interest shall be forfeited to Her Majesty :
- (4.) If any person, on behalf of himself or any other person or body of persons, wilfully makes a false declaration touching the qualification of himself or such other person or body of persons to own *British* ship or any shares therein, the declarant shall be guilty of a misdemeanor; and the ship or share in respect of which such declaration is made, if the same has not been forfeited under the foregoing provision, shall, to the extent of the interest therein of the person making the declaration, and, unless it is shown that he had no authority to make the same, of the parties on behalf of whom such declaration is made, be forfeited to Her Majesty :

And in order that the above provisions as to forfeitures may be carried into effect, it shall be lawful for any commissioned officer on full pay in the military or naval service of Her Majesty, or any *British* officer of customs, or any *British* consular officer, to seize and detain any ship which has, either wholly or as to any share therein, become subject to forfeiture as aforesaid, and to bring her for adjudication before the high court of admiralty in *England* or *Ireland*, or any court having admiralty jurisdiction in Her Majesty's Dominions ; and such court may thereupon make such order in the case as it may think fit, and may award to the officer bringing in the same for adjudication such portion of the proceeds of the sale of any forfeited ship or share as it may think right.

(See also *Imp. Act 18 & 19 Vict., c. 91, s. 9, post.*)

104. No such officer as aforesaid shall be responsible, either civilly or criminally, to any person whomsoever, in respect of the seizure or detention of any ship that has been seized or detained by him in pursuance of the provisions herein contained, notwithstanding that such ship is not brought in for adjudication, or, if so brought in, is declared not to be liable to forfeiture, if it is shown to the satisfaction of the judge or court before whom any trial relating to such ship or such seizure or detention is held that there were reasonable grounds for such seizure or detention; but if no such grounds are shown, such judge or court may award payment of costs and damages to any party aggrieved, and make such other order in the premises as it thinks just. Officer not liable for any seizure made on reasonable grounds.

105. If any colours usually worn by Her Majesty's ships, or any colours resembling those of Her Majesty, or any distinctive Penalty for carrying improper colours.

tinctive national colours, except the red ensign usually worn by merchant ships, or except the Union Jack with a white border, or if the pendant usually carried by Her Majesty's ships or any pendant in anywise resembling such pendant, are or is hoisted on board any ship or boat belonging to any subject of Her Majesty without warrant for so doing from Her Majesty, or from the admiralty, the master of such ship or boat, or the owner thereof, if on board the same, and every other person hoisting or joining or assisting in hoisting the same, shall for every such offence incur a penalty not exceeding five hundred pounds; and it shall be lawful for any officer on full pay in the military or naval service of Her Majesty, or any *British* officer of the customs or any *British* consular officer, to board any such ship or boat, and to take away any such jack, colours, or pendant; and such jack, colours, or pendant shall be forfeited to Her Majesty.

Effect of declaration in the Act that a ship shall not be recognized as a *British* ship.

106. Whenever it is declared by this Act that a ship belonging to any person or body corporate qualified according to this Act to be owners of *British* ships shall not be recognized as a *British* ship, such ship shall not be entitled to any benefits, privileges, advantages, or protection usually enjoyed by *British* ships, and shall not be entitled to use the *British* flag or assume the *British* national character; but, so far as regards the payment of dues, the liability to pains and penalties, and the punishment of offences committed on board such ship or by any persons belonging to her, such ship shall be dealt with in the same manner in all respects as if she were a recognized *British* ship.

Evidence.

Copies of registers and declarations to be admissible in evidence and to be *prima facie* proof of certain things.

107. Every register of or declaration made in pursuance of the second part of this Act in respect of any *British* ship may be proved in any court of justice, or before any person having by law or by consent of parties authority to receive evidence, either by the production of the original or by an examined copy thereof, or by a copy thereof purporting to be certified under the hand of the registrar or other person having the charge of the original; which certified copies he is hereby required to furnish to any person applying at a reasonable time for the same, upon payment of one shilling for each such certified copy; and every such register or copy of a register, and also every certificate of registry of any *British* ship, purporting to be signed by the registrar or other proper officer, shall be received in evidence in any court of justice or before any person having by law or by consent of parties authority to receive evidence as *prima facie* proof of all the matters contained or recited in such register when the register or such copy is produced, and of all the matters contained in or indorsed on such certificate of registry, and purporting

purporting to be authenticated by the signature of a registrar, when such certificate is produced.

(See *Imp. Act 18 & 19 Vict., c. 91, s. 15, post.*)

(*Sec. 108 refers only to ships built and trading in the East Indies.*)

PART III.

MASTERS AND SEAMEN.

Application.

109. The various provisions of the third part of this Act shall have the following applications, unless the context or subject matter requires a different application: (that is to say,)

So much of the third part of this Act as relates to the delivery or transmission of lists of crews to the registrar general of seamen shall apply to all fishing vessels belonging to the United Kingdom, whether employed exclusively on the coasts of the United Kingdom or not; to all ships belonging to the *Trinity House*, or the commissioners of northern lighthouses, constituted as hereinafter mentioned, or the port of *Dublin* corporation, and to all pleasure yachts, and to the owners, masters, and crews of such ships.

Application of Part III of Act.
Returns for certain ships belonging to the United Kingdom.

So much of the third part of this Act as relates to the delivery and transmission of lists of crews, and to the wages and effects of deceased seamen and apprentices, shall apply to all sea-going *British* ships, wherever registered, of which the crews are discharged, or whose final port of destination is in the United Kingdom, and to the owners, masters, and crews of such ships:

Returns and wages of deceased seamen in certain Colonial ships.

So much of the third part of this Act as relates to the shipping and discharge of seamen in the United Kingdom shall apply to all sea-going *British* ships, wherever registered, and to the owners, masters, and crews of such ships:

Shipping and discharging men in the United Kingdom.

So

Volunteering
into the Navy.

So much of the third part of this Act as relates to seamen volunteering into the Royal Navy shall apply to all sea-going *British* ships, wherever registered, and to the owners, masters, and crews of such ships, wherever the same may be :

Provisions ap-
plicable to Co-
lonial ships.

So much of the third part of this Act as relates to rights to wages and remedies for the recovery thereof ; to the shipping and discharge of seamen in foreign ports ; to leaving seamen abroad, and to the relief of seamen in distress in foreign ports ; to the provisions, health and accommodation of seamen ; to the power of seamen to make complaints ; to the protection of seamen from imposition ; to discipline ; to naval courts on the high seas and abroad ; and to crimes committed abroad ; shall apply to all ships registered in any of Her Majesty's Dominions abroad, when such ships are out of the jurisdiction of their respective governments, and to the owners, masters, and crews of such ships :

As to whole of
Part III. of
Act.

And the whole of the third part of this Act shall apply to all sea-going ships registered in the United Kingdom, (except such as are exclusively employed in fishing on coasts of the United Kingdom, and such as belong to the *Trinity House*, the commissioners of northern light-houses, or the port of *Dublin* corporation, and also except pleasure yachts,) and also to all ships registered in any *British* Possession and employed in trading or going between any place in the United Kingdom and any place or places not situate in the Possession in which such ships are registered, and to the owners, masters, and crews of such ships respectively, wherever the same may be.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 13 post.*)

Local Marine Boards.

Constitution
of local marine
boards.

110. There shall be local marine boards for carrying into effect the provisions of this Act under the superintendence of the board of trade at those seaports of the United Kingdom at which local marine boards have heretofore been established, and at such other places as the board of trade appoints for this purpose ; and each of such local marine boards shall be constituted as follows ; (that is to say,) the mayor or Provost and stipendiary magistrate or such of the mayors or provosts and stipendiary magistrates of the place (if more than one) as the board of trade appoints shall be a member or members *ex officio* ; the board of trade shall appoint four members from persons residing or having places of at the port or within seven miles thereof ; and the owners of foreign-going ships and of home trade passenger ships registered

tered at the port shall elect six members ; and such elections as aforesaid shall take place on the twenty-fifth day of *January* one thousand eight hundred and fifty-seven, and on the twenty-fifth day of *January* in every third succeeding year, and such appointments as aforesaid shall take place within one month after such elections ; and upon the conclusion of such month and the constitution of a new board, the functions of the then existing board shall cease, and the board consisting of the members then newly elected and appointed shall take its place ; and any occasional vacancy caused in the intervals between the general elections and appointments, by death, resignation, disqualification, or otherwise, shall be filled up within one month after it occurs ; and every person elected or appointed on an occasional vacancy shall continue a member until the next constitution of a new board ; and the mayor or provost shall fix the place and mode of conducting all such elections as aforesaid, and also on occasional vacancies the day of election, and shall give at least ten days notice thereof ; and the board of trade shall have power to decide on any questions raised concerning any such elections.

111. Owners of foreign-going ships and of home trade passenger ships registered at any seaport at which there is a local marine board shall have votes at the election of members of such board as follows ; (that is to say,) every registered owner of not less than two hundred and fifty tons in the whole of such shipping shall at every election have one vote for each member for every two hundred and fifty tons owned by him, so that his votes for any one member do not exceed ten :

Qualification
of voters for
members of lo-
cal marine
boards.

And for the purpose of ascertaining the qualification of such electors the following rules shall be observed ; (that is to say),

In the case of a ship registered in the name of one person, such person shall be deemed to be the owner :

And in the case of a ship registered in distinct and several shares in the names of more persons than one, the tonnage shall be apportioned among the owners as nearly as may be in proportion to their respective shares, and each of such persons shall be deemed to be the owner of the tonnage so apportioned to him :

And in the case of a ship or shares of a ship registered jointly without severance of interest in the names of more persons than one, the tonnage shall, if it is sufficient, either alone or together with other tonnage (if any) owned by such joint owners, to give a qualification to each of them, be apportioned equally between the joint owners, and each of such joint owners shall be deemed to be the owner of the equal share

share so apportioned to him, but if it is not so sufficient, the whole of such tonnage shall be deemed to be owned by such one of the joint owners resident or having a place of business at the port or within seven miles thereof as is first named on the register :

And in making any such apportionment as aforesaid any portion may be struck off so as to obtain a divisible amount ; and the whole amount of tonnage so owned by each person, whether in ships or shares of or interests in ships, shall be added together, and, if sufficient, shall constitute his qualification.

Lists of such voters to be made.

112. The collector or comptroller of customs in every seaport of the United Kingdom at which there is a local marine board shall, with the assistance of the registrar general of seamen, on or before the twenty-fifth day of *December* in the year one thousand eight hundred and fifty-six, and in every third succeeding year, make out an alphabetical list of the persons entitled by virtue of this Act to vote at the election of members of such local marine board, containing the Christian name, surname, and residence of each such person, and the number of votes to which he is entitled, and shall sign such list, and cause a sufficient number of copies thereof to be printed, and to be fixed on or near the doors of the custom house at such seaport for two entire weeks next after such list has been made, and shall keep true copies of such list, and permit the same to be perused by any person, without payment of any fee, at all reasonable hours during such two weeks.

Revision of list of voters.

113. The mayor or provost of every seaport at which there is a local marine board, or such of them, if more than one, as is or are for the time being so appointed as aforesaid, shall at least twenty days before the twenty-fifth day of *January*, in the year one thousand eight hundred and fifty-seven, and in each succeeding third year, nominate two justices of the peace to revise the said lists ; and such justices shall, between the eighth and fifteenth days of *January* both inclusive in the year in which they are so nominated, revise the said list at the custom house of the port, or in some convenient place near thereto, to be hired, if necessary, by the said collector or comptroller, and shall give three clear days notice of such revision by advertising the same in some local newspaper, and by affixing a notice thereof on or near to the doors of such custom house, and shall make such revision by inserting in such list the name of every person who claims to be inserted therein, and gives proof satisfactory to the said revisors of his right to have his name so inserted, and by striking out therefrom the name of every person to the insertion of which an objection is made by any other person named in such list who gives proof satisfactory to the said revisors that the name of

of the person so objected to ought not to have been inserted therein; and the decision of the said revisors with respect to every such claim or objection shall be conclusive; and the said revisors shall immediately after such revision sign their names at the foot of the list so revised; and such list so revised shall be the register of voters at elections of members of the local marine board, of such seaport for three years from the twenty-fifth day of *January* then next ensuing inclusive to the twenty-fourth day of *January* inclusive in the third succeeding year; and the said revised list, when so signed, shall be delivered to such mayor or provost as aforesaid of the place, who shall, if necessary, cause a sufficient number of copies thereof to be printed, and shall cause a copy to be delivered to every voter applying for the same.

114. The said collector or comptroller, if required, shall for the assistance of the said revisors in revising the said list produce to them the books containing the register of ships registered at such seaport; and the registrar general of seamen, if required, shall also produce or transmit to such revisors such certified extracts or returns from the books in his custody as may be necessary for the same purpose.

Registers to be produced.

115. The two justices aforesaid shall certify all expenses properly incurred by any such collector or comptroller as aforesaid in making and printing the said list and in the revision thereof, and the board of trade shall pay the same, and also all expenses properly incurred by any such mayor or provost as aforesaid in printing the same or in elections taking place under this Act; and the said board may disallow any items of any such expenses as aforesaid which it deems to have been improperly incurred.

Expenses to be paid by board of trade.

116. Every person whose name appears on such revised list, and no other person, shall be qualified to vote at the election of members of the local marine board at such seaport to be held on the twenty-fifth day of *January* next after the revision of such list, and at any occasional election held at any time between that day and the next ordinary triennial election of the members of such board.

Persons on revised list qualified to vote.

117. Every male person who is according to such revised list of the voters at any seaport entitled to a vote shall be qualified to be elected a member of the local marine board of such seaport, and no other person shall be so qualified; and if any person elected as a member after such election ceases to be an owner of such quantity of tonnage as would entitle him to a vote, he shall no longer continue to act or be considered as a member, and thereupon another member shall be elected in his place.

Qualification of members of local marine boards.

118. No act of any local marine board shall be vitiated or prejudiced by reason of any irregularity in the election of any

Error in elections not to vitiate acts done.

of its members, or of any error in the list of voters herein mentioned, or of any irregularity in the making or revising of such list, or by reason of any person who is not duly qualified as herein-before directed acting upon such board.

Minutes and
business of
local marine
boards.

119. Every local marine board shall keep minutes of its proceedings, and the same shall be kept in such mode (if any) as the board of trade prescribes; and such minutes, and all books or documents used or kept by any local marine board, or by any examiners, shipping masters, or other officers or servants under the control of any local marine board, shall be open to the inspection of the board of trade and its officers; and every local marine board shall make and send to the board of trade such reports and returns as it requires; but, subject as aforesaid, every local marine board may regulate the mode in which its meetings are to be held and its business conducted.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 14.*)

If any local
marine board
fails to dis-
charge its du-
ties, board of
trade may as-
sume its du-
ties, or direct
new election.

120. If any local marine board, by reason of any election not taking place, or of the simultaneous resignation or continued non-attendance of all or the greater part of the members or from any other cause, fails to meet or to discharge its duties, the board of trade may in its discretion either take into its own hands the performance of the duties of such local marine board until the next triennial appointment and election thereof, or direct that a new appointment and election of such local marine board shall take place immediately.

Board of trade,
on complaint,
may alter ar-
rangements
made by local
marine boards.

121. If upon complaint made to the board of trade it appears to such board that any appointments or arrangements made by any local marine board under the powers hereby given to it are not such as to meet the wants of the port, or are in any respect unsatisfactory or improper, the board of trade may annul, alter, or rectify such appointments or arrangements in such manner as, having regard to the intentions of this Act and to the wants of the port, it deems to be expedient.

Shipping offices.

Local marine
boards to es-
tablish ship-
ping offices.

122. In every seaport in the United Kingdom in which there is a local marine board such board shall establish a shipping office or shipping offices, and may for that purpose, subject as herein mentioned, procure the requisite premises, and appoint and from time to time remove and re-appoint superintendents of such offices, to be called shipping masters, with any necessary deputies, clerks, and servants, and regulate the mode of conducting business at such offices, and shall, subject as herein mentioned, have complete control over the

the same ; and every act done by or before any deputy duly appointed shall have the same effect as if done by or before a shipping master.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 15.*)

123. The sanction of the board of trade shall be necessary as far as regards the number of persons so appointed by any such local marine board, and the amount of their salaries and wages and all other expenses ; and the board of trade shall have the immediate control of such shipping offices, so far as regards the receipt and payment of money thereat ; and all shipping masters, deputies, clerks, and servants so appointed as aforesaid shall before entering upon their duties give such security (if any) for the due performance thereof as the board of trade requires ; and if in any case the board of trade has reason to believe that any shipping master, deputy, clerk, or servant appointed by any local marine board does not properly discharge his duties, the board of trade may cause the case to be investigated, and may, if it thinks fit so to do, remove him from his office, and may provide for the proper performance of his duties until another person is properly appointed in his place.

Board of trade
to have partial
control over
shipping off-
ices.

124. It shall be the general business of shipping masters appointed as aforesaid—

Business of
such offices
generally.

To afford facilities for engaging seamen by keeping registries of their names and characters ;

To superintend and facilitate their engagement and discharge in manner hereinafter mentioned ;

To provide means for securing the presence on board at the proper times of men who are so engaged ;

To facilitate the making of apprenticeships to the sea service ;

To perform such other duties relating to merchant seamen and merchant ships as are hereby or may hereafter under the powers herein contained be committed to them.

125. Such fees, not exceeding the sums specified in the table marked P. in the schedule hereto, as are from time to time fixed by the board of trade, shall be payable upon all engagements and discharges effected before shipping masters as hereinafter mentioned, and the board of trade shall cause scales of the fees payable for the time being to be prepared and to be conspicuously placed in the shipping offices ; and all shipping masters, their deputies, clerks, and servants, may refuse to proceed with any engagement or discharge unless the fees payable thereon are first paid.

Fees to be paid
upon engage-
ments and dis-
charges.

Masters to pay fees and to deduct part from wages.

Proviso as to excess.

Penalty on shipping masters taking other remuneration.

Business of shipping offices may be transacted at Custom houses

In London sailors' homes may be shipping offices.

Dispensation with shipping master's superintendence.

Examinations to be instituted for masters and mates.

126. Every owner or master of a ship engaging or discharging any seamen or seaman in a shipping office or before a shipping master shall pay to the shipping master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the table marked Q, in the schedule hereto : provided, that if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the shipping master in addition to such fee.

127. Any shipping master, deputy shipping master, or any clerk or servant in any shipping office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding twenty pounds, and shall also be liable to be dismissed from his office by the board of trade.

128. The board of trade may, with the consent of the commissioners of customs, direct that at any place in which no separate shipping office is established the whole or any part of the business of the shipping office shall be conducted at the custom house, and thereupon the same shall be there conducted accordingly; and in respect of such business such custom house shall for all purposes be deemed to be a shipping office, and the officer of customs there to whom such business is committed shall for all purposes be deemed to be a shipping master within the meaning of this Act.

129. The board of trade may appoint any superintendent of or other person connected with any sailors' home in the port of *London* to be a shipping master, with any necessary deputies, clerks, and servants, and may appoint any office in any such home to be a shipping office; and all shipping masters and shipping offices so appointed shall be subject to the immediate control of the board of trade and not of the local marine board of the port.

130. The board of trade may from time to time dispense with the transaction before a shipping master or in a shipping office of any matters required by this Act to be so transacted; and thereupon such matters shall, if otherwise duly transacted as required by law, be as valid as if transacted before a shipping master or in a shipping office.

Examinations and Certificates of Masters and Mates.

131. Examinations shall be instituted for persons who intend to become masters or mates of foreign-going ships, or of

of home trade passenger ships, or who wish to procure certificates of competency hereinafter mentioned; and subject as herein mentioned, the local marine boards shall provide for the examinations at their respective ports, and may appoint and from time to time remove and re-appoint examiners to conduct the same, and may regulate the same; and any members of the local marine board of the place where the examination is held may be present and assist at any such examination.

(Imp. Act 25 & 26 Vict., c. 63, s. 17, provides for the examination of masters and mates at ports where there are no local marine boards.)

132. The board of trade may from time to time lay down rules as to the conduct of such examinations and as to the qualifications of the applicants, and such rules shall be strictly adhered to by all examiners; and no examiner shall be appointed unless he possesses a certificate of qualification, to be from time to time granted or renewed by the board of trade; and the sanction of the board of trade shall be necessary, so far as regards the number of examiners to be appointed, and the amount of their remuneration; and the board of trade may at any time depute any of its officers to be present and assist at any examination; and if it appears to the board of trade that the examinations for any two or more ports can be conducted without inconvenience by the same examiners, it may require and authorize the local marine boards of such ports to act together as one board in providing for and regulating examinations and appointing and removing examiners for such ports.

Powers of board of trade over examinations.

133. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked R. in the schedule hereto, as the board of trade directs; and such fees shall be paid to such persons as the said board appoints for that purpose.

Fees to be paid by applicants for examination.

134. Subject to the proviso herein-after contained, the board of trade shall deliver to every applicant who is duly reported by the local examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master, or as first, second, or only mate of a foreign-going ship, or as master or mate of a home trade passenger ship, as the case may be:

Certificates of competency to be granted to those who pass.

Provided that in every case in which the board of trade has reason to believe such report to have been unduly made, such board may remit the case either to the same or to any other examiners,

examiners, and may require a re-examination of the applicant, or a further inquiry into his testimonials and character, before granting him a certificate.

Certificates of service to be delivered to persons who served as masters or mates before 1851, and to certain naval officers; and certificates of service for home trade passenger ships to be delivered to persons who have served as masters or mates in such ships before 1st January 1854.

135. Certificates of service, differing in form from certificates of competency, shall be granted as follows; (that is to say),

- (1.) Every person who before the first day of *January* one thousand eight hundred and fifty-one served as master in the *British* merchant service, or who has attained or attains the rank of lieutenant, master, passed mate, or second master, or any higher rank in the service of Her Majesty or of the *East India* Company, shall be entitled to a certificate of service as master for foreign-going ships :
- (2.) Every person who before the first day of *January* one thousand eight hundred and fifty-one served as mate in the *British* merchant service shall be entitled to a certificate of service as mate for foreign-going ships :
- (3.) Every person who before the first day of *January* one thousand eight hundred and fifty-four has served as master of a home trade passenger ship shall be entitled to a certificate of service as master for home trade passenger ships :
- (4.) Every person who before the first day of *January* one thousand eight hundred and fifty-four has served as mate of a home trade passenger ship shall be entitled to a certificate of service as mate for home trade passenger ships :

And each of such certificates of service shall contain particulars of the name, place, and time of birth, and of the length and nature of the previous service of the person to whom the same is delivered; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No foreign-going ship or home trade passenger ship to proceed to sea without certificates of the master and mates.

136. No foreign-going ship or home trade passenger ship shall go to sea from any port in the United Kingdom unless the master thereof, and in the case of a foreign-going ship the first and second mates or only mate (as the case may be), and in the case of a home trade passenger ship the first or only mate, (as the case may be), have obtained and possess valid certificates either of competency or service appropriate to their several stations in such ship, or of a higher grade; and

and no such ship, if of one hundred tons burden or upwards, shall go to sea as aforesaid, unless at least one officer besides the master has obtained and possesses a valid certificate appropriate to the grade of only mate therein or to a higher grade; and every person who, having been engaged to serve as master or as first or second or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a certificate as hereinbefore required, or who employ any person as master, or first, second, or only mate of any foreign-going ship, or as master or first or only mate of a home trade passenger ship, without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence incur a penalty not exceeding fifty pounds.

(*Imp. Act 25 & 26 Vict.. c. 63, s. 5, provides that every steamship which is by this Act required to have a master possessing a certificate shall also have an engineer possessing a certificate; and sections 5-12 of that Act provides for the examination of and granting of certificates to engineers.*)

137. Every certificate of competency for a foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a home trade passenger ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship; but no certificate for a home trade passenger ship shall entitle the holder to go to sea as a master or mate of a foreign-going ship.

Certificates for foreign-going ships available for home trade passenger ships.

138. All certificates whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the certificate, and the other shall be kept and recorded by the registrar general of seamen or by such other person as the board of trade appoints for that purpose; and the board of trade shall give to such registrar or such other person immediate notice of all orders made by it for cancelling, suspending, altering, or otherwise affecting any certificate in pursuance of the powers herein contained; and the registrar or such other person as aforesaid shall thereupon make a corresponding entry in the record of certificates; and a copy purporting to be certified by such registrar or his assistant, or by such person as aforesaid of any certificate shall be *prima facie* evidence of such certificate and a copy purporting to be so certified as aforesaid of any entry made as aforesaid in respect of any certificate shall be *prima facie* evidence of the truth of the matters stated in such entry.

The registrar to record grants, cancellations, &c., of certificates.

Duplicates and entries to be evidence.

139. Whenever any master or mate proves to the satisfaction of the board of trade that he has, without fault on his part, lost or been deprived of any certificate already granted to

In case of loss a copy to be granted.

to him, the board of trade shall, upon payment of such fee (if any) as it directs, cause a copy of the certificate to which by the record so kept as aforesaid he appears to be entitled, to be made out and certified as aforesaid, and to be delivered to him; and any copy which purports to be so made and certified as aforesaid shall have all the effect of the original.

Penalties for false representations;

for forging or altering or fraudulently using or lending any certificate.

140. Every person who makes, or procures to be made, or assists in making, any false representation for the purpose of obtaining for himself or for any other person a certificate either of competency or service, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or any official copy of any such certificate or who fraudulently makes use of any such certificate or any copy of any such certificate which is forged, altered, cancelled, suspended, or to which he is not justly entitled, or who fraudulently lends his certificate to or allows the same to be used by any other person, shall for each offence be deemed guilty of a misdemeanor.

Apprenticeships to the Sea Service.

Shipping masters to assist in binding apprentices, and may receive fees.

141. All shipping masters appointed under this Act shall, if applied to for the purpose, give to any board of guardians, overseers, or other persons desirous of apprenticing boys to the sea service, and to masters and owners of ships requiring apprentices, such assistance as is in their power for facilitating the making of such apprenticeships, and may receive from persons availing themselves of such assistance such fees as may be determined in that behalf by the board of trade, with the concurrence, so far as relates to pauper apprentices in *England*, of the poor law board in *England*, and so far as relates to pauper apprentices in *Ireland*, of the poor law commissioners in *Ireland*.

Indentures of boys bound apprentices to sea service by guardians or overseers to be witnessed by two justices.

142. In the case of every boy bound apprentice to the sea service by any guardians or overseers of the poor, or other persons having the authority of guardians of the poor, the indentures shall be executed by the boy and the person to whom he is bound in the presence of and shall be attested by two justices of the peace, who shall ascertain that the boy has consented to be bound, and has attained the age of twelve years, and is of sufficient health and strength, and that the master to whom the boy is to be bound is a proper person for the purpose.

Indentures of apprenticeship to be exempt from stamp duty and to be recorded.

143. All indentures of apprenticeship to the sea service shall be exempt from stamp duty; and all such indentures shall be in duplicate; and every person to whom any boy whatever is bound as an apprentice to the sea service in the United Kingdom shall within seven days after the execution of

of the indentures take or transmit the same to the registrar general of seamen or to some shipping master ; and the said registrar or shipping master shall retain and record one copy, and shall indorse on the other that the same has been recorded, and shall re-deliver the same to the master of the apprentice ; and whenever any such indenture is assigned or cancelled, and whenever any such apprentice dies or deserts, the master of the apprentice shall, within seven days after such assignment, cancellation, death, or desertion, if the same happens within the United Kingdom, or if the same happens elsewhere so soon afterwards as circumstances permit, notify the same either to the said registrar of seamen, or to some shipping master, to be recorded ; and every person who fails to comply with the provisions of this section shall incur a penalty not exceeding ten pounds.

(Secs. 144 & 145 related only to the apprenticeship of paupers in Great Britain and Ireland.)

Engagement of Seamen.

(See Dom. Act, 38 Vict., c. 29.)

146. The board of trade may grant to such persons as it thinks fit license to engage or supply seamen or apprentices for merchant ships in the United Kingdom, to continue for such periods, to be upon such terms, and to be revocable upon such conditions, as such board thinks proper.

Board of trade may license persons to procure seamen.

147. The following offences shall be punishable as herein-after mentioned ; (that is to say,) Penalties :

- (1.) If any person not licensed as aforesaid, other than the owner or master or a mate of the ship, or some person who is *bond fide* the servant and in the constant employ of the owner, or a shipping master duly appointed as aforesaid, engages or supplies any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds : for supplying seamen without license ;
- (2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman or apprentice to be entered on board any ship in the United Kingdom, he shall for each seaman or apprentice so engaged or supplied incur a penalty not exceeding twenty pounds, and, if licensed, shall in addition forfeit his license : for employing unlicensed persons ;
- (3.) If any person knowingly receives or accepts to be entered on board any ship any seaman or apprentice who has been engaged on supplied contrary to the provisions of this for receiving seamen illegally supplied.

this Act, he shall for every seaman and apprentice so engaged or supplied incur a penalty not exceeding twenty pounds.

Penalty for receiving remuneration from seamen for shipping them.

148. If any person demands or receives, either directly or indirectly, from any seaman or apprentice, or from any person seeking employment as a seaman or apprentice, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding five pounds.

Agreements to be made with seamen, containing certain particulars.

149. The master of every ship, except ships of less than eighty tons registered tonnage exclusively employed in trading between different ports on the coasts of the United Kingdom, shall enter into an agreement with every seaman whom he carries to sea from any port in the United Kingdom as one of his crew in the manner hereinafter mentioned; and every such agreement shall be in a form sanctioned by the board of trade, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof, (that is to say,)

- (1.) The nature, and, as far as practicable, the duration of the intended voyage or engagement :
- (2.) The number and description of the crew, specifying how many are engaged as sailors :
- (3.) The time at which each seaman is to be on board or to begin work :
- (4.) The capacity in which each seaman is to serve :
- (5.) The amount of wages which each seaman is to receive :
- (6.) A scale of the provisions which are to be furnished to each seaman :
- (7.) Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the board of trade as regulations proper to be adopted and which the parties agree to adopt :

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case, as to advance and allotment of wages, and may contain any other stipulations which are not contrary to law :

Provided

Provided that if the master of any ship belonging to any *British Possession* has an agreement with his crew made in due form according to the Law of the Possession to which such ship belongs or in which her crew were engaged, and engages single seamen in the United Kingdom, such seamen may sign the agreement so made, and it shall not be necessary for them to sign an agreement in the form sanctioned by the board of trade.

Proviso as to forms for Colonial ships.

(See *Imp. Act 36 & 37 Vict., c. 85, s. 7.*)

150. In the case of all foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say,)

For foreign-going ships such agreements, when made in the United Kingdom, except in special cases to be made, before and attested by a shipping master;

- (1.) Every agreement made in the United Kingdom (except in such cases of agreements with substitutes as are hereinafter specially provided for) shall be signed by each seaman in the presence of a shipping master :
- (2.) Such shipping master shall cause the agreement to be read over and explained to each seaman, or otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature :
- (3.) When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the shipping master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master :
- (4.) In the case of substitutes engaged in the place of seamen who have only signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some shipping master duly appointed in the manner hereinbefore specified ; and whenever such last-mentioned engagement cannot be so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen ; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

To be in duplicate;

Provisions for substitutes.

151. In the case of foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages,

Foreign-going ships making short voyages may have running agreements.

voyages, so that no such agreement shall extend beyond the next following thirtieth day of *June* or thirty-first day of *December* or the first arrival of the ship at her port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other foreign-going ships; and every person engaged thereunder, if discharged in the United Kingdom, shall be discharged in the manner hereby required for the discharge of seamen belonging to other foreign-going ships.

Engagement and discharge of seamen in the meantime.

152. The master of every foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any port in the United Kingdom before the final termination of the agreement, discharge or engage before the shipping master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return indorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so indorsed to the shipping master; and any master who wilfully makes a false statement in such indorsement shall incur a penalty not exceeding twenty pounds; and the shipping master shall also sign an indorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so indorsed to the master.

Duplicates of running agreements, how to be dealt with.

153. In cases in which such running agreements are made, the duplicate agreement retained by the shipping master upon the first engagement of the crew shall either be transmitted to the registrar general of seamen immediately, or be kept by the shipping master until the expiration of the agreement, as the board of trade directs.

Fees to be paid on such running agreements.

154. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates, and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In home trade ships agreement to be entered into before a ship-

155. In the case of home trade ships, crews or single seamen may, if the master thinks fit, be engaged before a shipping master in the manner hereinbefore directed with respect

respect to foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea, if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

ping master or other witness.

156. In cases where several home trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but with the foregoing exception all provisions herein contained which relate to ordinary agreements for home trade ships shall be applicable to agreements made in pursuance of this section.

Special agreements for home trade ships belonging to same owners.

157. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master in the case of a foreign-going ship, and the master or owner in the case of a home trade ship, shall for each such offence incur a penalty not exceeding five pounds.

Penalty for shipping seamen without agreement duly executed.

158. The master of every foreign-going ship of which the crew has been engaged before a shipping master shall before finally leaving the United Kingdom sign and send to the nearest shipping master a full and accurate statement, in a form sanctioned by the board of trade, of every change which takes place in his crew before finally leaving the United Kingdom, and in default shall for each offence incur a penalty not exceeding five pounds; and such statement shall be admissible in evidence, subject to all just exceptions.

Changes in crew to be reported.

159. Every master of a ship who, if such ship is registered in the United Kingdom, engages any seaman in any *British Possession*, or if such ship belongs to any *British Possession*, engages any seaman in any *British Possession* other than that to which the ship belongs, shall, if there is at the place where such seaman is engaged any official shipping master or other officer duly appointed for the purpose of shipping seamen, engage such seaman before such shipping master, and if there is no such shipping master or officer, then before some officer of customs; and the same rules, qualifications, and penalties, as are hereinbefore specified with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements in a *British Possession*; and upon every such engagement such shipping

Seamen engaged in the colonies to be shipped before some shipping master or officer of customs.

shipping master or officer as aforesaid shall indorse upon the agreement an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and if in any case such attestation is not made, the burden of proving that the seaman was duly engaged as hereby required shall lie upon the master.

Seamen engaged in foreign ports to be shipped with the sanction and in the presence of the consul.

160. Every master of a *British* ship who engages any seaman at any place out of Her Majesty's Dominions in which there is a *British* consular officer shall, before carrying such seaman to sea, procure the sanction of such officer, and shall engage such seaman before such officer; and the same rules as are hereinbefore contained with respect to the engagement of seamen before shipping masters in the United Kingdom, shall apply to such engagements made before consular officers; and upon every such engagement the consular officer shall indorse upon the agreement his sanction thereof, and an attestation to the effect that the same has been signed in his presence, and otherwise made as hereby required; and every master who engages any seaman in any place in which there is a consular officer, otherwise than as hereinbefore required, shall incur a penalty not exceeding twenty pounds; and if in any case the indorsement and attestation hereby required is not made upon the agreement, the burden of proving the engagement to have been made as hereinbefore required shall lie upon the master.

Rules as to production of agreements and certificates of masters and mates of foreign-going ships.

161. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for foreign-going ships; (that is to say,)

- (1.) The master of every foreign-going ship shall, on signing the agreement with his crew, produce to the shipping master before whom the same is signed the certificates of competency or service which the said master and his first and second mate or only mate, as the case may be, are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the shipping master shall sign and give to the master a certificate to that effect:
- (2.) In the case of running agreements for foreign-going ships the shipping master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such agreements, and producing to the shipping master the certificate of competency or service of any first, second, or only mate then first engaged by him, a certificate to that effect:

(3.)

- (3.) The master of every foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the shipping master as aforesaid to the collector or comptroller of customs, and no officer of customs shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such officer may detain her until such certificate as aforesaid is produced:
- (4.) The master of every foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver such agreement to a shipping master at the place; and such shipping master shall thereupon give to the master a certificate of such delivery; and no officer of customs shall clear any foreign-going ship inwards without the production of such certificate:

And if the master of any foreign-going ship fails to deliver the agreement to a shipping master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding five pounds.

162. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for home trade ships; (that is to say,)

Rules as to production of agreements and certificates for home trade ships.

- (1.) In the case of home trade ships of more than eighty tons burden, no agreement shall extend beyond the next following thirtieth day of *June* or thirty-first day of *December*, or the first arrival of the ship at her final port of destination in the United Kingdom after such date, or the discharge of cargo consequent upon such arrival:
- (2.) The master or owner of every such ship shall, within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom every agreement made within the six calendar months next preceding such days respectively, and shall also in the case of home trade passenger ships produce to the shipping master the certificates of competency or service which the said master, and his first and only mate, as the case may be, are hereby required to possess:
- (3.) The shipping master shall thereupon give to the master or owner a certificate of such delivery and production; and no officer of customs shall grant a clearance or *transire* for any such ship as last aforesaid without the production

production of such certificate ; and if any such ship attempts to ply or go to sea without such clearance or *transire*, any such officer may detain her until the said certificate is produced :

And if the agreement for any home trade ship is not delivered or transmitted by the master or owner to a shipping master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding five pounds.

Alterations to be void unless attested to have been made with the consent of all parties.

163. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by the third part of this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's Dominions) of some shipping master, justice, officer of customs, or other public functionary, or (if made out of Her Majesty's Dominions) of a *British* consular officer, or where there is no such officer, of two respectable *British* merchants.

Penalty for falsifying agreement.

164. Every person who fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, or makes or assists in making, or procures to be made, any false entry in, or delivers, assists in delivering, or procures to be delivered, a false copy of any agreement, shall for each such offence be deemed guilty of a misdemeanor.

Seamen not to be bound to produce agreement.

165. Any seaman may bring forward evidence to prove the contents of any agreement or otherwise to support his case, without producing or giving notice to produce the agreement or any copy thereof.

Copy of agreement to be made accessible to crew.

166. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement (omitting the signatures) to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding five pounds.

Seamen discharged before voyage to have compensation.

167. Any seaman who has signed an agreement, and is afterwards discharged before the commencement of the voyage, or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the court hearing

hearing the case deems satisfactory of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Allotment of Wages.

168. All stipulations for the allotment of any part of the wages of a seaman during his absence which are made at the commencement of the voyage shall be inserted in the agreement, and shall state the amounts and times of the payments to be made; and all allotment notes shall be in forms sanctioned by the board of trade.

Regulations as to allotment notes.

169. The wife, or the father or mother, or the grandfather or grandmother, or any child or grandchild, or any brother or sister of any seaman in whose favour an allotment note of part of the wages of such seaman is made, may, unless the seaman is shown in manner hereinafter mentioned, to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid, and subject, as to the wife, to the provision hereinafter contained, sue for and recover the sums allotted by the note when and as the same are made payable, with costs, from the owner or any agent who has authorized the drawing of the note, either in the county court or in the summary manner in which seamen are by this Act enabled to sue for and recover wages not exceeding fifty pounds; and in any such proceeding it shall be sufficient for the claimant to prove that he or she is the person mentioned in the note, and that the note was given by the owner or by the master or some other authorized agent; and the seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the court, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log book to the effect that he has left the ship, or by a credible letter from the master of the ship to the same effect, or by such other evidence, of whatever description, as the court in its absolute discretion considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Allotment notes may be sued on summarily by certain persons and under certain conditions.

Provided that the wife of any seaman who deserts her children, or so misconducts herself as to be undeserving of support from her husband, shall thereupon forfeit all right to further payments of any allotment of his wages which has been made in her favour.

Discharge and Payment of Wages.

(See Dom. Act, 38 Vict., c. 29.)

170. In the case of all *British* foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered,

Discharge from foreign-going ships to

be made before
shipping
master.

registered, all seamen discharged in the United Kingdom shall be discharged and receive their wages in the presence of a shipping master duly appointed under this Act, except in cases where some competent court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or, except as aforesaid, pays his wages within the United Kingdom in any other manner, shall incur a penalty not exceeding ten pounds; and in the case of home trade ships seamen may, if the owner or master so desires, be discharged, and receive their wages in like manner.

Master to de-
liver account
of wages.

171. Every master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a shipping master, to such shipping master a full and true account, in a form sanctioned by the board of trade, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding five pounds; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions, as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge,
masters to give
seamen certi-
ficates of dis-
charge, and
return certi-
ficate of com-
petency or
service to
mates.

172. Upon the discharge of any seaman, or upon payment of his wages, the master shall sign and give him a certificate of his discharge, in a form sanctioned by the board of trade, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding ten pounds; and the master shall also, upon the discharge of every certificated mate, whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding twenty pounds.

Shipping mas-
ter may decide
questions
which parties
refer to him.

173. Every shipping master shall hear and decide any question whatever between a master or owner and any of his crew, which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall, in any legal proceeding which may be taken in the matter before any court of justice, be deemed to be conclusive as to the rights of the parties; and no such submission or award shall require a stamp; and any document purporting to be such submission or award shall be *prima facie* evidence thereof.

174. In any proceeding relating to the wages, claims, or discharge of any seaman, carried on before any shipping master under the provisions of this Act, such shipping master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the shipping master, does not produce any such paper or document as aforesaid, if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding five pounds.

Master and others to produce ship's papers to shipping masters and give evidence.

175. The following rules shall be observed with respect to the settlement of wages; (that is to say,)

Settlement of wages.

- (1.) Upon the completion before a shipping master of any discharge and settlement, the master or owner and each seaman shall respectively in the presence of the shipping master sign, in a form sanctioned by the board of trade, a mutual release of all claims in respect of the past voyage or engagement, and the shipping master shall also sign and attest it, and shall retain and transmit it as herein directed:

Release to be signed before and attested by the shipping master;
- (2.) Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement:

To be discharge:
- (3.) A copy of such release, certified under the hand of such shipping master to be a true copy, shall be given by him to any party thereto requiring the same; and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy:

and to be evidence.
- (4.) In cases in which discharge and settlement before a shipping master are hereby required, no payment, receipt, settlement, or discharge otherwise made, shall operate or be admitted as evidence of the release or satisfaction of any claim:

No other receipt to be a discharge.
- (5.) Upon any payment being made by a master before a shipping master, the shipping master shall, if required, sign and give to such master a statement of the whole amount

Voucher to be given to master, and to be evidence.

amount so paid; and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned:

Master to
make reports
of character.

176. Upon every discharge effected before a shipping master the master shall make and sign, in a form sanctioned by the board of trade, a report of the conduct, character, and qualifications of the persons discharged, or may state, in a column to be left for that purpose in the said form, that he declines to give any opinion upon such particulars or upon any of them; and the shipping master shall transmit the same to the registrar general of seamen, or to such other person as the board of trade directs, to be recorded, and shall, if desired so to do by any seaman, give to him or indorse on his certificate of discharge a copy of so much of such report as concerns him; and every person who makes, assists in making, or procures to be made any false certificate or report of the service, qualifications, conduct, or character of any seaman, knowing the same to be false, or who forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any such certificate or report, or who fraudulently makes use of any certificate or report or of any copy of any certificate or report which is forged or altered or does not belong to him, shall for each such offence be deemed guilty of a misdemeanor.

Remittance of Wages and Savings Banks for Seamen.

Facilities may
be given for
remitting sea-
men's wages.

177. Facilities shall, if the board of trade so directs, be given for remitting the wages and other monies of seamen and apprentices to their relatives or other persons by means of money orders issued by shipping masters; and the board of trade may make regulations concerning such orders, and the persons by or to whom, and the mode and time in and at which, the same are to be paid, and may from time to time repeal or alter any such regulations; and all such regulations, so long as they are in force, shall be binding upon all persons interested or claiming to be interested in such orders, as well as upon the officers employed in issuing or paying the same; and no legal proceeding shall be instituted against the board of trade, or against any shipping master or other public officer employed about such orders, on account of any such regulations, or on account of any act done or left undone in pursuance thereof, or on account of any refusal, neglect, or omission to pay any such money order, unless such refusal, neglect, or omission arise from fraud or wilful misbehaviour on the part of the person against whom proceedings are instituted.

Power to pay
when order is
lost.

178. The board of trade may, in any case in which it thinks fit so to do, cause the amount of any such money order

order as aforesaid to be paid to the person to whom or in whose favour the same may have been granted, or to his personal representatives, legatees, or next of kin, notwithstanding that such order may not be in his or their possession; and in all such cases from and after such payment the board of trade and every shipping master, or other officer of the board of trade, shall be freed from all liability in respect of such order.

179. Every shipping master or other public officer who grants or issues any money order with a fraudulent intent, shall in *England* or *Ireland* be deemed guilty of felony, and in *Scotland* of a high crime and offence, and shall be liable to be kept in penal servitude for a term not exceeding four years.

Penalty for issuing money orders with fraudulent intent.

180. The commissioners for the reduction of the national debt, or the comptroller general acting under them, may, on the application and recommendation of the board of trade, establish savings banks at such ports and places within the United Kingdom, either in the shipping offices established in such ports or elsewhere, as may appear to be expedient, and may appoint treasurers to receive from or on account of seamen, or the wives and families of seamen, desirous to become depositors in such savings banks, deposits to an amount not exceeding one hundred and fifty pounds in the whole in respect of any one account, under such regulations as may be prescribed by the said commissioners or comptroller general; and such regulations shall be binding on all such treasurers and depositors; and the said commissioners may remove such treasurers, and appoint others in their place; and all the provisions of the Acts now in force relating to savings banks, except so far as relates to the annual amount of deposit, shall apply to all saving banks which may be established under the authority of this Act, and to such treasurers and depositors as aforesaid.

Savings Banks for seamen may be established.

(See *Imp. Act, 18 & 19 Vict., c. 91, s. 17, post.*)

Legal Rights to Wages.

181. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Right to wages and provisions, when to begin.

182. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman

Seamen not to give up certain rights.

man consents to abandon his right to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 18, post.*)

Wages not to be dependent on the earning of freight.

183. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same, notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo and stores shall bar his claim.

In case of death, such wages to be paid as after mentioned.

184. If any seaman or apprentice, to whom wages are due under the last preceding enactment, dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

Rights to wages in case of termination of service by wreck or illness.

185. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid, by reason of his being left on shore at any place abroad, under a certificate of his unfitness or inability to proceed on the voyage granted as hereinafter mentioned, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

186. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work, nor, unless the court hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which wages are to be paid.

187. The master or owner of every ship shall pay to every seaman his wages within the respective periods following; (that is to say,) in the case of a home trade ship within two days after the termination of the agreement or at the time when such seaman is discharged, whichever first happens; and in the case of all other ships (except ships employed in the southern whale fishery or on other voyages for which seamen by the terms of their agreement are wholly compensated by shares in the profits of the adventure) within three days after the cargo has been delivered, or within five days

days after the seaman's discharge, whichever first happens ; and in all cases the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him ; and every master or owner who neglects or refuses to make payment in manner aforesaid, without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days pay for each of the days, not exceeding ten days, during which payment is delayed beyond the respective periods aforesaid, and such sum shall be recoverable as wages.

Mode of recovering Wages.

188. Any seaman or apprentice, or any person duly authorized on his behalf, may sue in a summary manner before any two justices of the peace acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, or in *Scotland* either before any such justices or before the sheriff of the county within which any such place is situated, for any amount of wages due to such seaman or apprentice not exceeding fifty pounds over and above the costs of any proceeding for the recovery thereof, so soon as the same becomes payable ; and every order made by such justices or sheriff in the matter shall be final.

Seamen may sue for wages in a summary manner.

(*See Imp. Act, 25 & 26 Vict., c. 63, s. 21.*)

189. No suit or proceeding for the recovery of wages under the sum of fifty pounds shall be instituted by or on behalf of any seaman or apprentice in any court of admiralty or vice-admiralty, or in the court of session in *Scotland*, or in any superior court of record in Her Majesty's Dominions, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such court as aforesaid, or unless any justices acting under the authority of this Act refer the case to be adjudged by such court, or unless neither the owner nor master is or resides within twenty miles of the place where the seaman or apprentice is discharged or put ashore.

Restrictions on suits for wages in superior courts.

190. No seaman who is engaged for a voyage or engagement which is to terminate in the United Kingdom shall be entitled to sue in any court abroad for wages, unless he is discharged with such sanction as herein required and with the written consent of the master, or proves such ill-usage on the part of the master or by his authority as to warrant reasonable apprehension of danger to the life of such seaman if he were to remain on board ; but if any seaman on his return to the United Kingdom proves that the master or owner has been

No seaman to sue for wages abroad, except in cases of discharge or of danger to life.

been guilty of any conduct or default which but for this enactment would have entitled the seaman to sue for wages before the termination of the voyage or engagement, he shall be entitled to recover in addition to his wages such compensation not exceeding twenty pounds as the court hearing the case thinks reasonable.

Master to have same remedies for wages as seamen.

191. Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if in any proceeding in any court of admiralty or vice-admiralty touching the claim of a master to wages any right of set-off or counter-claim is set up, it shall be lawful for such court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

(Secs. 192 & 193 provided for relief to seamen's families out of poor rates.)

Wages and Effects of deceased Seamen.

Masters to take charge of or sell effects of deceased seamen which are on board, and enter the same and wages due in the official log.

194. Whenever any seaman or apprentice belonging to or sent home in any *British* ship whether a foreign-going ship or a home trade ship, employed on a voyage which is to terminate in the United Kingdom, dies during such voyage, the master shall take charge of all money, clothes, and effects which he leaves on board, and shall, if he thinks fit, cause all or any of the said clothes and effects to be sold by auction at the mast or other public auction, and shall thereupon sign an entry in the official log book containing the following particulars; (that is to say,)

- (1.) A statement of the amount of the money and a description of the effects so left by the deceased :
- (2.) In case of a sale, a description of each article sold, and the sum received for each :
- (3.) A statement of the sum due to the deceased as wages, and the total amount of the deductions (if any) to be made therefrom :

And shall cause such entry to be attested by a mate and by one of the crew.

Such effects and wages to be paid either to consul or to shipping master, with full accounts.

195. In the cases provided for by the last preceding section, the following rules shall be observed; (that is to say,)

(1.)

- (1.) If the ship proceeds at once to any port in the United Kingdom without touching on the way at any foreign port, the master shall within forty-eight hours after his arrival deliver any such effects as aforesaid remaining unsold, and pay any money which he has taken charge of or received from such sale as aforesaid, and also the balance of wages due to the deceased, to the shipping master at the port of destination in the United Kingdom :
- (2.) If the ship touches and remains for forty-eight hours at some foreign port or at some port in Her Majesty's Dominions abroad before coming to any port in the United Kingdom, the master shall report the case to the *British* consular officer or officer of customs there, as the case may be, and shall give to such officer any information he requires as to the destination of the ship and probable length of the voyage ; and such officer may thereupon, if he considers it expedient so to do, require the said effects, money, and wages to be delivered and paid to him and shall upon such delivery and payment give to the master a receipt, and the master shall within forty-eight hours after his arrival at his port of destination in the United Kingdom produce the same to the shipping master there ; and such consular officer or officer of customs shall in such case indorse and certify upon the agreement with the crew such particulars with respect to such delivery and payment as the board of trade requires :
- (3.) If such officer as aforesaid does not require such payment and delivery to be made to him, the master shall take charge of the said effects, money, and wages, and shall, within forty-eight hours after his arrival at his port of destination in the United Kingdom deliver and pay the same to the shipping master there :
- (4.) The master shall in all cases in which any seaman or apprentice dies during the progress of a voyage or engagement give to the board of trade, or to such officer or shipping master as aforesaid, an account in such form as they respectively require of the effects, money, and wages so to be delivered and paid ; and no deductions claimed in such account shall be allowed unless verified, if there is any official log book, by such entry therein as hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the board of trade, or by the officer or shipping master to whom the account is rendered :
- (5.) Upon due compliance with such of the provisions of this section as relate to acts to be done at the port of destination in the United Kingdom, the shipping master shall grant to the master a certificate to that effect, and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate.

Penalties for not taking charge of, remitting, or accounting for such monies and effects.



196. If any master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to procure such attestation to such entries or to make such payment or delivery of any money, wages, or effects of any seaman or apprentice dying during a voyage, or to give such account in respect thereof as hereinbefore respectively directed, he shall be accountable for the money, wages and effects of the seaman or apprentice to the board of trade, and shall pay and deliver the same accordingly; and such master shall, in addition for every such offence, incur a penalty not exceeding treble the value of the money or effects not accounted for, or, if such value is not ascertained, not exceeding fifty pounds; and if any such money, wages, or effects are not duly paid, delivered, or accounted for by the master; the owner of the ship shall pay, deliver, and account for the same, and such money and wages and the value of such effects shall be recoverable from him accordingly; and if he fails to account for and pay the same, he shall, in addition to his liability for the said money and value, incur the same penalty which is hereinbefore mentioned as incurred by the master for the like offence; and all money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Officers of customs and consuls to take charge of effects left by seamen abroad, and to remit the same and their wages to board of trade.

197. If any such seaman or apprentice as last aforesaid dies abroad at any place, either in or out of Her Majesty's Dominions, leaving any money or effects not on board his ship, the chief officer of customs or the *British* consular officer at or nearest to the place, as the case may be, shall claim and take charge of such money and effects; and such officer shall, if he thinks fit, sell all or any of such effects, or any effects of any deceased seaman or apprentice delivered to him under the provisions hereinbefore contained; and every such officer shall, quarterly or at such other times as the board of trade directs, remit to Her Majesty's paymaster general all monies belonging to or arising from the sale of the effects of or paid as the wages of any deceased seaman or apprentice which have come to his hands under the provisions hereinbefore contained, and shall render such accounts in respect thereof as the board of trade requires.

(See *Imp. Act 25 & 26 Vict., c. 63, s. 20, post.*)

Wages and effects of seamen dying at home to be paid in certain cases to board of trade.

198. Whenever any seaman or apprentice dies in the United Kingdom, and is at the time of his death entitled to claim from the master or owner of any ship in which he has served any unpaid wages or effects, such master or owner shall pay and deliver or account for the same to the shipping master

master at the port where the seaman or apprentice was discharged or was to have been discharged, or to the board of trade, as it directs.

199. If the money and effects of any deceased seaman or apprentice paid, delivered, or remitted to the board of trade or its agents, including the monies received for any part of the said effects which have been sold either before delivery to the board of trade or by its direction, do not exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained, and to all such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the said board thinks proper to allow, the said board may, if it thinks fit so to do, pay and deliver the said money and effects either to any claimants who can prove themselves to the satisfaction of the said board either to be his widow or children, or to be entitled to the effects of the deceased under his will (if any), or under the statutes for the distribution of the effects of intestates, or under any other statute, or at common law, or to be entitled to procure probate or take out letters of administration or confirmation, although no probate or letters of administration or confirmation have been taken out, and shall thereby be discharged from all further liability in respect of the money and effects so paid and delivered, or may, if it thinks fit so to do, require probate or letters of administration or confirmation to be taken out, and thereupon pay and deliver the said money and effects to the legal personal representatives of the deceased; and all claimants to whom such money or effects are so paid or delivered shall apply the same in due course of administration; and if such money and effects exceed in value the sum of fifty pounds, then, subject to the provisions hereinafter contained and to deduction for expenses, the board of trade shall pay and deliver the same to the legal personal representatives of the deceased.

If less than £50, wages and property of deceased seamen may be paid over without probate or administration to the persons entitled.

200. In cases where the deceased seaman or apprentice has left a will, the board of trade shall have the following powers; (that is to say,)

Mode of payment under wills made by seamen.

- (1.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person claiming to be entitled thereto under a will made on board ship unless such will is in writing, and is signed or acknowledged by the testator in the presence of the master, or first, or only mate of the ship, and is attested by such master or mate:
- (2.) It may in its discretion refuse to pay or deliver any such wages or effects as aforesaid to any person not being related to the testator by blood or marriage, who claims to

to be entitled thereto under a will made elsewhere than on board ship, unless such will is in writing, and is signed or acknowledged by the testator in the presence of two witnesses, one of whom is some shipping master appointed under this Act, or some minister or officiating minister or curate of the place in which the same is made, or, in a place where there are no such persons, some justice of the peace, or some *British* consular officer, or some officer of customs, and is attested by such witnesses :

Whenever any claim made under a will is rejected by the board of trade, on account of the said will not being made and attested as hereinbefore required, the wages and effects of the deceased shall be dealt with as if no will had been made.

Provision for
payment of
just claims by
creditors, and
for preventing
fraudulent
claims.

201. The following rules shall be observed with respect to creditors of deceased seamen and apprentices; (that is to say,)

- (1.) No such creditor shall be entitled to claim from the board of trade the wages or effects of any such seaman or apprentice, or any part thereof, by virtue of letters of administration taken out by him, or by virtue of confirmation in *Scotland* as executor creditor :
- (2.) No such creditor shall be entitled, by any means whatever, to payment of his debt out of such wages and effects, if the debt accrued more than three years before the death of the deceased, or if the demand is not made within two years after such death :
- (3.) Subject as aforesaid, the steps to be taken for procuring payment of such debt shall be as follows (that is to say) : every person making a demand as creditor shall deliver to the board of trade an account in writing in such form as it requires, subscribed with his name, stating the particulars of his demand and the place of his abode, and verified by his declaration made before a justice :
- (4.) If before such demand is made any claim to the wages and effects of the deceased, made by any person interested therein as his widow or child, or under a will, or under the Statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, has been allowed, the board of trade shall give notice to the creditor of the allowance of such person's claim, and the creditor shall thereupon have the same rights and remedies against such person as if he or she had received the said wages and effects as the legal personal representative of the deceased :

(5.)

- (5.) If no claim by any such person has been allowed, the board of trade shall proceed to investigate the creditor's account, and may for that purpose require him to prove the same, and to produce all books, accounts, vouchers, and papers relating thereto; and if by such means the creditor duly satisfies the board of trade of the justice of the demand, either in the whole or in part, the same shall be allowed and paid accordingly, so far as the assets in the hands of the board of trade will extend for that purpose, and such payment shall discharge the board of trade from all further liability in respect of the money so paid; but if such board is not so satisfied, or if such books, accounts, vouchers, or papers as aforesaid are not produced, and no sufficient reason is assigned for not producing them, the demand shall be disallowed:
- (6.) In any case whatever the board of trade may delay the investigation of any demand made by a creditor for the payment of his debt for one year from the time of the first delivery of the demand; and if in the course of that time a claim to the wages and effects of the deceased is made and substantiated as hereinbefore required by any person interested therein as a widow or child, or under a will, or under the statutes for the distribution of the effects of intestates, or under any other Statute, or at common law, the board of trade may pay and deliver the same to such person; and thereupon the creditor shall have the same rights and remedies against such person as if he or she had received the same as the legal personal representative of the deceased.

202. In cases of wages or effects of deceased seamen or apprentices received by the board of trade, to which no claim is substantiated within six years after the receipt thereof by such board, it shall be in the absolute discretion of such board, if any subsequent claim is made, either to allow or to refuse the same; and, subject to the provision hereinafter contained, the board of trade shall from time to time pay any monies arising from the unclaimed wages and effects of deceased seamen, which, in the opinion of such board, it is not necessary to retain for the purpose of satisfying claims, into the receipt of Her Majesty's Exchequer, in such manner as the Treasury directs, and such monies shall be carried to and form part of the consolidated fund of the United Kingdom.

Mode of dealing with unclaimed wages of deceased seamen.

203. Every person who, for the purpose of obtaining, either for himself or for another, any money or effects of any deceased seaman or apprentice, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document

Punishment for forgery and false representations in order to obtain wages and property of deceased seamen.

document purporting to show or assist in showing a right to such wages or effects, and every person who for the purpose aforesaid makes use of any such forged or altered document as aforesaid, or who for the purpose aforesaid gives or makes or procures to be given or made, or assists in giving or making or procuring to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with penal servitude for a term not exceeding four years, or with imprisonment with or without hard labor for any period not exceeding two years, or if summarily prosecuted and convicted, by imprisonment, with or without hard labor, for any period not exceeding six months.

Effects of seamen discharged from navy to be disposed of by accountant general of navy.

204. In the case of seamen invalided or discharged from any of Her Majesty's ships, and sent home in merchant ships, any monies or effects belonging to them which are paid, remitted, or delivered to the board of trade, or its agents, under the provisions hereinbefore contained, shall be paid over and disposed of in such manner as the accountant general of Her Majesty's navy directs.

(And see *Imp. Act 25 & 26 Vict., c. 63, s. 21, post.*)

Leaving Seamen abroad.

On discharge of seamen abroad, by sale of ship or otherwise, certificates of discharge to be given, and seamen to be sent home at expense of owner.

205. Whenever any *British* ship is transferred or disposed of at any place out of Her Majesty's Dominions, and any seaman or apprentice belonging thereto does not in the presence of some *British* consular officer; or, if there is no such consular officer there, in the presence of one or more respectable *British* merchants residing at the place, and not interested in the said ship, signify his consent in writing to complete the voyage if continued, and whenever the service of any seaman or apprentice belonging to any *British* ship terminates at any place out of Her Majesty's Dominions, the master shall give to each such seaman or apprentice a certificate of discharge in the form sanctioned by the board of trade as aforesaid, and, in the case of any certificated mate whose certificate he has retained, shall return such certificate to him, and shall also, besides paying the wages to which such seaman or apprentice is entitled, either provide him with adequate employment on board some other *British* ship bound to the port in Her Majesty's Dominions at which he was originally shipped, or to such other port in the United Kingdom as is agreed upon by him, or furnish the means of sending him back to such port, or provide him with a passage home, or deposit with such consular officer or such merchant or merchants as aforesaid such a sum of money as is by such officer or merchants deemed sufficient to defray the expenses of his subsistence and passage home; and such consular officer or merchants shall indorse upon the agreement of the ship which the

the seaman or apprentice is leaving the particulars of such payment, provision, or deposit; and if the master refuses or neglects to comply with the requirements of this section, such expenses as last aforesaid, if defrayed by such consular officer or by any other person, shall, unless such seaman or apprentice has been guilty of barratry, be a charge upon the ship to which such seaman or apprentice belonged and upon the owner for the time being thereof, and may be recovered against such owners, with costs, at the suit of the consular officer or other person defraying such expenses, or, in case the same has been allowed to the consular officer out of the public monies, as a debt due to Her Majesty either by ordinary process of law, or in the manner in which seamen are hereby enabled to recover wages; and such expenses, if defrayed by the seaman or apprentice, shall be recoverable as wages due to him.

206. If the master or any other person belonging to any *British* ship wrongfully forces on shore and leaves behind, or otherwise wilfully and wrongfully leaves behind, in any place, on shore or at sea, in or out of Her Majesty's Dominions, any seaman or apprentice belonging to such ship before the completion of the voyage for which such person was engaged or the return of the ship to the United Kingdom, he shall for each such offence be deemed guilty of a misdemeanor.

Forcing seamen on shore a misdemeanor.

207. If the master of any *British* ship does any of the following things; (that is to say,)

No seamen to be discharged or left abroad without certificate of some functionary.

- (1.) Discharges any seaman or apprentice in any place situate in any *British* Possession abroad (except the Possession in which he was shipped), without previously obtaining the sanction in writing indorsed on the agreement of some public shipping master or other officer duly appointed by the local government in that behalf, or (in the absence of any such functionary) of the chief officer of customs resident at or near the place where the discharge takes place :
- (2.) Discharges any seaman or apprentice at any place out of Her Majesty's Dominions without previously obtaining the sanction so indorsed as aforesaid of the *British* consular officer there, or (in his absence) of two respectable merchants resident there :
- (3.) Leaves behind any seaman or apprentice at any place situate in any *British* Possession abroad, on any ground whatever, without previously obtaining a certificate in writing so indorsed as aforesaid from such officer or person as aforesaid, stating the fact and the cause thereof, whether such cause be unfitness or inability to proceed to sea, or desertion or disappearance :

(4.)

- (4.) Leaves behind any seaman or apprentice at any place out of Her Majesty's Dominions, on shore or at sea, on any ground whatever, without previously obtaining the certificate indorsed in manner and to the effect last aforesaid of the *British* consular officer there, or (in his absence) of two respectable merchants, if there is any such at or near the place where the ship then is :

He shall for each such default be deemed guilty of a misdemeanor ; and the said functionaries shall and the said merchants may examine into the grounds of such proposed discharge, or into the allegation of such unfitness, inability, desertion, or disappearance as aforesaid, in a summary way, and may for that purpose, if they think fit so to do, administer oaths, and may either grant or refuse such sanction or certificate as appears to them to be just.

Proof of such certificate to be upon the master.

208. Upon the trial of any information, indictment, or other proceeding against any person for discharging or leaving behind any seaman or apprentice, contrary to the provisions of this Act, it shall lie upon such person either to produce the sanction or certificate hereby required, or to prove that he had obtained the same previously to having discharged or left behind such seaman or apprentice, or that it was impracticable for him to obtain such sanction or certificate.

Wages to be paid when seamen are left behind on ground of inability.

209. Every master of any *British* ship who leaves any seaman or apprentice on shore at any place abroad in or out of Her Majesty's Dominions, under a certificate of his unfitness or inability to proceed on the voyage, shall deliver to one of the functionaries aforesaid, or (in the absence of such functionaries) to the merchants by whom such certificate is signed, or, if there be but one respectable merchant resident at such place, to him, a full and true account of the wages due to such seaman or apprentice, such account when delivered to a consular officer to be in duplicate, and shall pay the same either in money or by a bill drawn upon the owner ; and in the case of every bill so drawn, such functionary, merchants or merchant as aforesaid, shall by indorsement certify thereon that the same is drawn for money due on account of a seaman's wages, and shall also indorse the amount for which such bill is drawn, with such further particulars in respect of the case as the board of trade requires, upon the agreement of the ship ; and every such master as aforesaid who refuses or neglects to deliver a full account of such wages, and pay the amount thereof in money or by bill, as hereinbefore required, shall for every such offence or default be liable, in addition to the payment of the wages, to a penalty not exceeding ten pounds ; and every such master who delivers a false account of such wages shall for every such offence, in addition to the payment of the wages, incur a penalty not exceeding twenty pounds.

(See

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 19, post.*)

210. Every such payment as last aforesaid, whether by bill or in money, shall, if made in any *British Possession*, be made to the seaman or apprentice himself, and, if made out of Her Majesty's Dominions, to the consular officer, who shall, if satisfied with the account, indorse on one of the duplicates thereof a receipt for the amount paid or bill delivered, and shall return the same to the master; and the master shall, within forty-eight hours after his return to his port of destination in the United Kingdom, deliver the same to the shipping master there; and the consular officer shall retain the other duplicate of the said account, and shall, if the seaman or apprentice subsequently obtains employment at or otherwise quits the port, deduct out of the sum received by him as aforesaid any expenses which have been incurred by him in respect of the subsistence of the seaman or apprentice under the provisions herein contained, except such as the master or owner of the ship is hereby required to pay, and shall pay the remainder to the seaman or apprentice, and shall also deliver to him an account of the sums so received and expended on his behalf; and shall, if the seaman or apprentice dies before his ship quits the port, deal with the same in the manner hereinafter specified in that behalf, and shall, if the seaman or apprentice is sent home at the public expense under the provisions herein contained, account for the amount received to the board of trade; and such amount shall, after deducting any expenses which have been duly incurred in respect of such seaman or apprentice, except such as the master or owner of the ship is hereby required to pay, be dealt with as wages to which he is entitled, and shall be paid accordingly.

Such wages to be treated as money due to the seamen, subject to payment of expense of their subsistence and passage home.

211. The Governors, consular officers, and other officers of Her Majesty in foreign countries shall, and in places where there are no such Governors or officers, any two resident *British* merchants may, provide for the subsistence of all seamen or apprentices, being subjects of Her Majesty, who have been shipwrecked, discharged, or left behind at any place abroad, whether from any ship employed in the merchant service or from any of Her Majesty's ships, or who have been engaged by any person acting either as principal or agent to serve in any ship belonging to any foreign power or to the subject of any foreign state, and who are in distress in any place abroad, until such time as they are able to provide them with a passage home, and for that purpose shall cause such seamen or apprentices to be put on board some ship belonging to any subject of Her Majesty bound to any port of the United Kingdom, or to the *British Possession* to which they belong, (as the case requires,) which is in want of men to make up its complement, and in default of any such ship

Distressed seamen found abroad may be relieved and sent home at the public expense.

ship shall provide them with a passage home as soon as possible in some ship belonging to a subject of Her Majesty so bound as aforesaid, and shall indorse on the agreement of any ship on board of which any seaman or apprentice is so taken or sent the name of every person so sent on board thereof, with such particulars concerning the case as the board of trade requires, and shall be allowed for the subsistence of any such seaman or apprentice such sum *per diem* as the board of trade from time to time appoints; and the amount due in respect of such allowance shall be paid out of any monies applicable to the relief of distressed *British* seamen, and granted by Parliament for the purpose, on the production of the bills of the disbursements, with the proper vouchers.

(See *Imp. Acts 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.*)

Masters of
British ships
compelled to
take them.

212. The master of every *British* ship so bound as aforesaid shall receive and afford a passage and subsistence to all seamen or apprentices whom he is required to take on board his ship under the provisions hereinbefore contained, not exceeding one for every fifty tons burden, and shall during the passage provide every such seaman or apprentice with a proper berth or sleeping place effectually protected against sea and weather; and on the production of a certificate signed by any Governor, consular officer, or merchants, by whose directions any such seaman or apprentice was received on board, specifying the number and names of such seamen or apprentices, and the time when each of them respectively was received on board, and on a declaration made by such person before a justice, and verified by the registrar general of seamen, stating the number of days during which each seaman or apprentice received subsistence and was provided for as aforesaid on board his ship, and stating also the number of men and boys forming the complement of his crew, and the number of seamen and apprentices employed on board his ship during such time, and every variation (if any) of such number, such person shall be entitled to be paid out of the said monies applicable to the relief of distressed *British* seamen, in respect of the subsistence and passage of every seaman or apprentice so conveyed, subsisted, and provided for by him exceeding the number (if any) wanted to make up the complement of his crew, such sum *per diem* as the board of trade from time to time appoints, and if any person having charge of any such ship fails or refuses to receive on board his ship, or to give a passage home, or subsistence to, or to provide for any such seaman or apprentice as aforesaid, contrary to the provisions of this Act, he shall incur a penalty not exceeding one hundred pounds for each seaman or apprentice with respect to whom he makes such default or refusal.

(See

(See *Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22, post.*)

213. If any seaman or apprentice belonging to any *British* ship is discharged or left behind at any place out of the United Kingdom, without full compliance on the part of the master with all the provisions in that behalf in this Act contained, and becomes distressed and is relieved under the provisions of this Act, or if any subject of Her Majesty, after having been engaged by any person (whether acting as principal or agent) to serve in any ship belonging to any foreign power, or to the subject of any foreign power, becomes distressed and is relieved as aforesaid, the wages (if any) due to such seaman or apprentice, and all expenses incurred for his subsistence, necessary clothing, conveyance home, and burial, in case he should die abroad before reaching home, shall be a charge upon the ship, whether *British* or foreign, to which he so belonged as aforesaid; and the board of trade may in the name of Her Majesty (besides suing for any penalties which may have been incurred) sue for and recover the said wages and expenses, with costs, either from the master of such ship as aforesaid, or from the person who is owner thereof for the time being, or, in the case of such engagement as aforesaid for service in a foreign ship, from such master or owner, or from the person by whom such engagement was so made as aforesaid; and such sums shall be recoverable either in the same manner as other debts due to Her Majesty, or in the same manner and by the same form and process in which wages due to the seaman would be recoverable by him; and in any proceedings for that purpose production of the account (if any) to be furnished as hereinbefore is provided in such cases, together with proof of payment by the board of trade or by the paymaster general of the charges incurred on account of any such seaman, apprentice, or other person, shall be sufficient evidence that he was relieved, conveyed home, or buried (as the case may be) at Her Majesty's expense.

Power to sue for the amount advanced for the relief of seamen left abroad.

(See *Imp. Acts, 18 & 19 Vict., c. 91, s. 16, and 25 & 26 Vict., c. 63, s. 22.*)

Volunteering into the Navy.

214. Any seaman may leave his ship for the purpose of forthwith entering into the naval service of Her Majesty, and such leaving his ship shall not be deemed a desertion therefrom, and shall not render him liable to any punishment or forfeiture whatever; and all stipulations introduced into any agreement whereby any seaman is declared to incur any forfeiture or be exposed to any loss in case he enters into Her Majesty's naval service shall be void, and every master or owner

Seamen allowed to leave their ships in order to enter the navy.

owner who causes any such stipulation to be so introduced shall incur a penalty not exceeding twenty pounds.

Clothes to be delivered at once.

Wages to be given to the Queen's officer on account of the seamen.

215. Whenever any seaman, without having previously committed any act amounting to and treated by the master as desertion, leaves his ship in order to enter into the naval service of Her Majesty and is received into such service, the master shall deliver to him his clothes and effects on board such ship, and shall pay the proportionate amount of his wages down to the time of such entry, subject to all just deductions as follows; (that is to say,) the master of the said ship shall pay the same to the officer authorized to receive such seaman into Her Majesty's service, either in money or by bill drawn upon the owner and payable at sight to the order of the accountant general of the navy; and the receipt of such officer shall be a discharge for the money or bill so given; and such bill shall be exempt from stamp duty; and if such wages are paid in money, such money shall be credited in the muster book of the ship to the account of the said seaman; and if such wages are paid by bill, such bill shall be noted in the said muster book and shall be sent to the said accountant general, who shall present the same or cause the same to be presented for payment, and shall credit the produce thereof to the account of the said seaman; and such money or produce (as the case may be) shall not be paid to the said seaman until the time at which he would have been entitled to receive the same if he had remained in the service of the ship which he had so quitted as aforesaid; and if any such bill is not duly paid when presented, the said accountant general or the seaman on whose behalf the same is given may sue thereon or may recover the wages due by all or any of the means by which wages due to merchant seamen are recoverable; and if upon any seaman leaving his ship in the manner and for the purpose aforesaid, the master fails to deliver his clothes and effects, or to pay his wages as hereinbefore required, he shall, in addition to his liability to pay and deliver the same, incur a penalty not exceeding twenty pounds; provided that no officer who receives any such bill as aforesaid shall be subject to any liability in respect thereof, except for the safe custody thereof until sent to the said accountant general as aforesaid.

Repayment to owner of advance paid and not duly earned.

216. If upon any seaman leaving his ship for the purpose of entering the naval service of Her Majesty, the owner or master of such ship shows to the satisfaction of the admiralty that he has paid or properly rendered himself liable to pay an advance of wages to or on account of such seaman, and that such seaman has not at the time of quitting his ship duly earned such advance by service therein, and, in the case of such liability as aforesaid, if such owner or master actually satisfies the same, it shall be lawful for the admiralty to pay to

to such owner or master so much of such advance as has not been duly earned, and to deduct the sum so paid from the wages of the seaman earned or to be earned in the naval service of Her Majesty.

217. If, in consequence of any seaman so leaving his ship without the consent of the master or owner thereof, it becomes necessary for the safety and proper navigation of the said ship to engage a substitute or substitutes, and if the wages or other remuneration paid to such substitute or substitutes for subsequent service exceed the wages or remuneration which would have been payable to the said seaman under his agreement for similar service, the master or owner of the said ship may apply to the registrar of the high court of admiralty in *England* for a certificate authorizing the repayment of such excess; and such application shall be in such form, and shall be accompanied by such documents, and by such statements, whether on oath or otherwise, as the judge of the said court from time to time directs.

If new seamen are engaged instead of the original seamen, the owner may apply for repayment of any extra expense he has been put to.

218. The said registrar shall, upon receiving such application as aforesaid, give notice thereof in writing, and of the sum claimed, to the secretary to the admiralty, and shall proceed to examine the said application, and may call upon the registrar general of seamen to produce any papers in his possession relating thereto, and may call for further evidence; and if the whole of the claim appears to him to be just, he shall give a certificate accordingly; but if he considers that such claim or any part thereof is not just he shall give notice of such his opinion in writing under his hand to the person making the said application or his attorney or agent; and if within sixteen days from the giving of such notice such person does not leave or cause to be left at the office of the registrar of the said court a written notice demanding that the said application shall be referred to the judge of the said court, then the said registrar shall finally decide thereon, and certify accordingly; but if such notice is left as aforesaid, then the said application shall stand referred to the said judge in his chambers, and his decision thereon shall be final, and the said registrar shall certify the same accordingly; and the said registrar and judge respectively shall in every proceeding under this Act have full power to administer oaths and to exercise all the ordinary powers of the court, as in any other proceeding within its jurisdiction; and the said registrar or judge (as the case may be) may, if he thinks fit, allow for the costs of any proceeding under this Act any sum not exceeding five pounds for each seaman so quitting his ship as aforesaid; and such sum shall be added to the sum allowed, and shall be certified by the said registrar accordingly.

Application how to be decided on, and amount of repayment how to be ascertained.

Accountant
general to
pay sums
when ascer-
tained.

219. Every certificate so given shall be sent by post or otherwise to the person making the application, his attorney or agent, and a copy thereof shall be sent to the accountant general of the navy; and such accountant general shall, upon delivery to him of the said original certificate, together with a receipt in writing purporting to be a receipt from the master or owner making the application, pay to the person delivering the same, out of the monies applicable to the naval service of Her Majesty, and granted by Parliament for the purpose, the amount mentioned in such certificate; and such certificate and receipt shall absolutely discharge the said accountant general and Her Majesty from all liability in respect of the monies so paid or of the said application.

Penalty for
forgery and
false repre-
sentations in
support of
such applica-
tions.

220. Every person who, in making or supporting any such applications as aforesaid to the registrar of the high court of admiralty, forges, assists in forging, or procures to be forged, or fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who, in making or supporting any such application, presents or makes use of any such forged or altered document, or who in making or supporting any such application makes or gives, or assists in making or giving, or procures to be made or given, any false evidence or representation, knowing the same to be false, shall be deemed guilty of a misdemeanor.

Provisions, Health, and Accommodation.

Survey of
provisions and
water on com-
plaint made.

221. Any three or more of the crew of any *British* ship may complain to any officer in command of any Her Majesty's ships, or any *British* consular officer, or any shipping master, or any chief officer of customs, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such officer may thereupon examine the said provisions or water, or cause them to be examined; and if on examination such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding twenty pounds; and upon every such examination as aforesaid the officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report

report thereof to the board of trade, and such report, if produced out of the custody of such board or its officers, shall be received in evidence in any legal proceeding.

222. If the officer, to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Forfeiture for
frivolous com-
plaint.

223. In the following cases, (that is to say,)

Allowance for
short or bad
provisions.

(1.) If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

(2.) If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums to be paid to him in addition to and to be recoverable as wages; (that is to say,)

(1.) If his allowance is reduced by any quantity not exceeding one third of the quantity specified in the agreement, a sum not exceeding fourpence a day;

(2.) If his allowance is reduced by more than one third of such quantity, eightpence a day;

(3.) In respect of such bad quality as aforesaid, a sum not exceeding one shilling a day:

But if it be shown to the satisfaction of the court before which the case is tried that any provisions the allowance of which has been reduced could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, the court shall take such circumstances into consideration, and shall modify or refuse compensation as the justice of the case may require.

(*Sec. 224 prescribed rules to be observed with respect to medicines, medical stores, and anti-scorbutics, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 4 of that Act.*)

Masters to keep weights and measures on board.

225. Every master shall keep on board proper weights and measures for the purpose of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding ten pounds.

Board of Trade and local boards may appoint inspectors of medicines, who are to see that ships are properly provided.

226. Any local marine board may, upon being required by the board of trade so to do, appoint and remove a medical inspector of ships for the port, and may fix his remuneration, such remuneration to be subject to the control of the board of trade; and at ports where there are no local marine boards the board of trade may appoint and remove such inspectors, and fix their remuneration; and it shall be the duty of such inspectors to inspect the medicines, medical stores, lime or lemon juice, or other articles, sugar and vinegar, required to be kept on board any such ships as aforesaid; and such inspection, if made at places where there are local marine boards, shall be made under their direction, and also in any special cases under the direction of the board of trade, and if made at places where there are no local marine boards, shall be made under the direction of the board of trade; and such medical inspectors shall for the purposes of such inspection have the same powers as the inspectors appointed by the board of trade under the first part of this Act; but every such inspector, if required by timely notice in writing from the master, owner, or consignee, shall make his inspection three days at least before the ship proceeds to sea, and if the result of the inspection is satisfactory, shall not again make inspection before the commencement of the voyage, unless he has reason to suspect that some of the articles inspected have been subsequently removed, injured, or destroyed; and whenever any such medical inspector is of opinion that in any ship hereby required to carry such articles as aforesaid the same or any of them are deficient in quantity or quality, or are placed in improper vessels, he shall signify the same in writing to the chief officer of customs of the port where such ship is lying, and also to the master, owner, or consignee thereof, and thereupon the master of such ship, before proceeding to sea, shall produce to such chief officer of customs a certificate under the hand of such medical inspector or of some other medical inspector, to the effect that such deficiency has been supplied or remedied, or that such improper vessels have been replaced by proper vessels, as the case may require; and such chief officer of customs shall not grant a clearance for such ship without the production of such certificate, and if such ship attempts to go to sea without a clearance, may detain her until such certificate is produced; and if such ship proceeds to sea without the production

production of such certificate, the owner, master, or consignee thereof shall incur a penalty not exceeding twenty pounds.

(Sec. 227 which provided a penalty for selling or supplying medicines, medical stores, lime or lemon juice, of bad quality, for the use of any ship, is repealed by Imp. Act 30 & 31 Vict., c. 124, sec. 3, and see sec. 5 of that Act.)

228. The following rules shall be observed with respect to expenses attendant on illness and death ; (that is to say,)

Expense of medical attendance and subsistence in case of illness, and of burial in case of death, how to be defrayed.

- (1.) If the master or any seaman or apprentice receives any hurt or injury in the service of the ship to which he belongs, the expense of providing the necessary surgical and medical advice, with attendance and medicines, and of his subsistence until he is cured, or dies, or is brought back to some port in the United Kingdom, if shipped in the United Kingdom, or if shipped in some *British Possession* to some port in such Possession, and of his conveyance to such port, and the expense (if any) of his burial, shall be defrayed by the owner of such ship, without any deduction on that account from the wages of such master, seaman, or apprentice :
- (2.) If the master or any seaman or apprentice is on account of any illness temporarily removed from his ship for the purpose of preventing infection, or otherwise for the convenience of the ship, and subsequently returns to his duty, the expense of such removal and of providing the necessary advice with attendance and medicines and of his subsistence whilst away from the ship, shall be defrayed in like manner :
- (3.) The expense of all medicines and surgical or medical advice and attendance given to any master, seaman or apprentice whilst on board his ship, shall be defrayed in like manner :
- (4.) In all other cases any reasonable expenses duly incurred by the owner for any seaman in respect of illness, and also any reasonable expenses duly incurred by the owner in respect of the burial of any seaman or apprentice who dies whilst on service, shall, if duly proved, be deducted from the wages of such seaman or apprentice.

229. If any such expenses in respect of the illness, injury, or hurt of any seaman or apprentice, as are to be borne by the owner, are paid by any consular officer or other person on behalf of Her Majesty, or if any other expenses in respect of the illness, injury, or hurt of any seaman or apprentice, whose

Expenses, if paid by Consul, to be recoverable from owner.

whose wages are not accounted for to such officer under the provisions hereinbefore contained in that behalf, are so paid, such expenses shall be repaid to such officer or other person by the master of the ship, and if not so repaid, the amount thereof, with costs, shall be a charge upon the ship, and be recoverable from the said master or from the owner of the ship for the time being as a debt due to Her Majesty, and shall be recoverable either by ordinary process of law or in the manner in which seamen are hereby enabled to recover wages; and in any proceeding for the recovery thereof the production of a certificate of the facts, signed by such officer or other person, together with such vouchers (if any) as the case requires, shall be sufficient proof that the said expenses were duly paid by such consular officer or other person as aforesaid.

Certain ships
to carry medi-
cal practition-
ers.

230. Every foreign-going ship having one hundred persons or upwards on board shall carry on board as part of her complement some person duly authorized by law to practise as physician, surgeon, or apothecary; and in default the owner shall, for every voyage of any such ship made without such medical practitioner, incur a penalty not exceeding one hundred pounds:

Provided that nothing herein contained shall in anywise affect any provision contained in the "Passengers Act, 1852," concerning the carriage of medical practitioners by the class of ships therein named passenger ships, nor shall any such passenger ship, if not thereby required to carry a medical practitioner, be hereby required to do so.

(Sec. 231 prescribed rules to be observed with respect to accommodation on board, and is repealed by Imp. Act, 30 & 31 Vict., c. 124, s. 3, and see Sec. 9 of that Act.)

Power of Making Complaint.

Seamen to be
allowed to go
ashore to
make com-
plaint to a
Justice.

232. If any seaman or apprentice whilst on board any ship states to the master that he desires to make complaint to a justice of the peace, or consular officer, or naval officer in command of any of Her Majesty's ships, against the master or any of the crew, the said master shall, if the ship is then at a place where there is a justice or any such officer as aforesaid, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman or apprentice to go ashore or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding ten pounds.

Protection

Protection of Seamen from Imposition.

233. No wages due or accruing to any seaman or apprentice shall be subject to attachment or arrestment from any court; and every payment of wages to a seaman or apprentice shall be valid in law, notwithstanding any previous sale or assignment of such wages, or of any attachment, incumbrance, or arrestment thereon; and no assignment or sale of such wages or of salvage made prior to the accruing thereof shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

Sale of and charge upon wages to be invalid.

234. No debt exceeding in amount five shillings, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded.

No debt exceeding 5s. recoverable till end of voyage.

235. If any person demands or receives from any seaman or apprentice to the sea service payment in respect of his board or lodging in the house of such a person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding ten pounds.

Penalty for overcharges by lodging-house keepers.

236. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice to the sea service, and does not return the same or pay the value thereof, when required by such seaman or apprentice, subject to such deductions as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding ten pounds, and any two justices may, besides inflicting such penalty, by summary order direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Penalty for detaining seamen's effects.

237. Every person who, not being in Her Majesty's service, and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival in dock or at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding twenty pounds; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any constable or peace officer, to be by him taken before a justice or justices or the sheriff of the County in Scotland, and to be dealt with according to the provisions of this Act.

Persons not to go on board before the final arrival of ship without permission.

238. If, within twenty-four hours after the arrival of any ship at any port in the United Kingdom, any person then being

Penalty for solicitations by lodging-house keepers.

being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence incur a penalty not exceeding five pounds.

Discipline.

(See Dom. Act, 38 Vict., c. 29.)

Misconduct
endangering
ship or life or
limb, a misde-
meanor.

239. Any master of or any seaman or apprentice belonging to any *British* ship who, by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be deemed guilty of a misdemeanour.

Power of Ad-
miralty Courts
to remove
master.

240. Any court having admiralty jurisdiction in any of Her Majesty's Dominions may, upon application by the owner of any ship being within the jurisdiction of such court, or by the part owner, or consignee, or by the agent of the owner, or by any certificated mate, or by one third or more of the crew of such ship, and upon proof on oath to the satisfaction of such court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner, or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the court, then without such consent, appoint a new master in his stead; and may also make such order, and may require such security in respect of costs in the matter, as it thinks fit.

Power to in-
vestigate cases
of alleged in-
competency
and miscon-
duct.

241. If the board of trade or any local marine board has reason to believe that any master or mate is from incompetency or misconduct unfit to discharge his duties, the board of trade may either institute an investigation or may direct the local marine board at or nearest to the place at which it may be convenient for the parties and witnesses to attend to institute the same, and thereupon such persons as the board of trade may appoint for the purpose, or, as the case may be, the local marine board, shall, with the assistance of a local stipendiary magistrate (if any), and if there is no such magistrate, of a competent legal assistant to be appointed by the board of trade, conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity

nity of making a defence either in person or otherwise, and shall, for the purpose of such investigation, have all the powers given by the first part of this Act to inspectors appointed by the board of trade, and may make such order with respect to the costs of such investigation as they may deem just; and shall, on the conclusion of the investigation, make a report upon the case to the board of trade; and in cases where there is no local marine board before which the parties and witnesses can conveniently attend, or where such local marine board is unwilling to institute the investigation, the board of trade may direct the same to be instituted before two justices or a stipendiary magistrate; and thereupon such investigation shall be conducted, and the results thereof reported, in the same manner and with the same powers in and with which formal investigations into wrecks and casualties are directed to be conducted, and the results thereof reported, under the provisions contained in the eighth part of this Act, save only that, if the board of trade so directs, the person bringing the charge of incompetency or misconduct to the notice of the board of trade, shall be deemed to be the party having the conduct of the case.

242. The board of trade may suspend or cancel the certificate (whether of competency or service) of any master or mate in the following cases; (that is to say,)

Board of Trade may cancel or suspend certificates in certain cases.

- (1.) If upon any investigation made in pursuance of the last preceding section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness or tyranny :
- (2.) If upon any investigation conducted under the provisions contained in the eighth part of this Act, or upon any investigation made by a naval court constituted as hereinafter mentioned, it is reported that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default :
- (3.) If he is superseded by the order of any admiralty court or of any naval court constituted as hereinafter mentioned :
- (4.) If he is shown to have been convicted of any offence :
- (5.) If upon any investigation made by any court or tribunal authorized or hereafter to be authorized by the legislative authority in any *British* possession to make inquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to shipwrecks or other casualties affecting ships, a report is made by such court or tribunal to the effect that he has been guilty of any gross

gross act of misconduct, drunkenness, or tyranny, or that the loss or abandonment of or serious damage to any ship or loss of life has been caused by his wrongful act or default, and such report is confirmed by the Governor or person administering the government of such possession :

And every master or mate whose certificate is cancelled or suspended shall deliver it to the board of trade or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds ; and the board of trade may at any subsequent time grant to any person whose certificate has been cancelled a new certificate of the same or of any lower grade.

(See *Imp. Act, 25 & 26 Vict., c. 63, s. 21 & 23, post.*)

Offences of
seamen and
apprentices
and their pun-
ishments.

243. Whenever any seaman who has been lawfully engaged or any apprentice to the sea service commits any of the following offences he shall be liable to be punished summarily as follows ; (that is to say,)

Desertion :

(1.) For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also to forfeit all or any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also if such desertion takes place abroad, at the discretion of the court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to the United Kingdom, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him :

Neglecting or
refusing to
join, or to pro-
ceed to sea, or
absence within
24 hours before
sailing, and
absence with-
out leave :

(2.) For neglecting or refusing, without reasonable cause, to join his ship, or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding the amount of two days pay, and in addition for every twenty-four hours of absence, either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute :

(3.)

- (3.) For quitting the ship without leave after her arrival at her port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay : Quitting without leave before ship is secured:
- (4.) For wilful disobedience to any lawful command, he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labour, and also, at the discretion of the court, to forfeit out of his wages a sum not exceeding two days pay : Act of disobedience:
- (5.) For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour, and also, at the discretion of the court, to forfeit for every twenty-four hours continuance of such disobedience or neglect either a sum not exceeding six days pay, or any expenses which have been properly incurred in hiring a substitute : Continued disobedience:
- (6.) For assaulting any master or mate, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Assault on officers:
- (7.) For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship, or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Combining to disobey:
- (8.) For wilfully damaging the ship, or embezzling, or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the court, to imprisonment for any period not exceeding twelve weeks, with or without hard labour : Wilful damage and embezzlement:
- (9.) For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy. Act of smuggling causing loss to owner.

244. Upon the commission of any of the offences enumerated in the last preceding section, an entry thereof shall be made in the official log book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall before the next subsequent arrival Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

arrival of the ship at any port, or if she is at the time in port, before her departure therefrom, either be furnished with a copy of such entry, or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to penalties for breach of discipline.

245. Every seafaring person whom the master of any ship is, under the authority of this Act or of any other Act of Parliament, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

246. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, in any place in Her Majesty's Dominions, with or without the assistance of the local police officers or constables, who are hereby directed to give the same, if required, and also at any place out of Her Majesty's Dominions, if and so far as the laws in force at such place will permit, apprehend him without first procuring a warrant; and may thereupon in any case, and shall in case he so requires and it is practicable, convey him before some court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may if he does not so require, or if there is no such court at or near the place, at once convey him on board; and if any such apprehension appears to the court before which the case is brought to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee who makes the same or causes the same to be made, shall incur a penalty not exceeding twenty pounds;

pounds; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

247. Whenever any seaman or apprentice is brought before any court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence to be paid by the offender, and, if necessary, to be deducted from any wages he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

248. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end, his services are required on board his ship, any justice may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship, or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

249. In all cases of desertion from any ship in any place abroad the master shall produce the entry of such desertion in the official log book to the person or persons hereby required to indorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry and also a copy of the said certificate of desertion; and if such person is a public functionary he shall, and in other cases the said master shall forthwith transmit such copies to the registrar general of seamen in *England*; and the said registrar shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, and certified to have come from the custody of the said registrar, shall, in any legal proceeding relating to such desertion, be received as evidence of the entries therein appearing.

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

Facilities for proving desertion, so far as concerns forfeiture of wages.

250. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate in the United Kingdom and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge, or can otherwise show to the satisfaction of the court that he had sufficient reasons for his leaving his ship.

Costs of procuring imprisonment may to the extent of £3 be deducted from wages.

251. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefor by imprisonment or otherwise, the court hearing the case may direct a part of the wages due to such seaman, not exceeding three pounds, to be applied in reimbursing any costs properly incurred by the master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

252. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as a calendar month or other the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

253. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place; and may, if earned subsequently to the desertion, be recovered by such master, or by the owner or his agent, in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages the court may order the same to be paid accordingly; and subject to such reimbursement the same shall be paid into the receipt of Her Majesty's

Majesty's exchequer in such manner as the treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and in all other cases of forfeiture of wages under the provisions hereinbefore contained the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

254. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Questions of forfeitures may be decided in suits for wages.

255. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding five pounds; and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Penalty for false statement as to last ship or name.

256. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows; (that is to say,) if the offender is discharged in the United Kingdom, and the offence and such entries in respect thereof as aforesaid are proved, in the case of a foreign-going ship, to the satisfaction of the shipping master before whom the offender is discharged, and in the case of a home trade ship, to the satisfaction of the shipping master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender, and pay the same over to such shipping master; and if before the final discharge of the crew in the United Kingdom, any such offender as aforesaid enters into any of Her Majesty's ships, or is discharged abroad, and the offence and such entries as aforesaid are proved to the satisfaction of the officer in command of the ship into which

Fines to be deducted from wages, and paid to shipping master.

he so enters, or of the consular officer, officer of customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log book (if any) and signed by such officer or other person; and on the return of the ship to the United Kingdom the master or owner shall pay over such fine, in the case of foreign-going ships, to the shipping master before whom the crew is discharged, and, in the case of home trade ships, to the shipping master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct, for which any such fine as aforesaid has been inflicted and paid, shall be otherwise punished under the provisions of this Act.

Penalty for
enticing to de-
sert, and har-
bouring de-
serters.

257. Every person who, by any means whatever, persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding ten pounds; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted incur a penalty not exceeding twenty pounds.

Penalty for ob-
taining pas-
sage surrepti-
tiously.

258. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding twenty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding four weeks.

On change of
masters, docu-
ments hereby
required to be
handed over to
successor.

259. If during the progress of a voyage the master is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody, and shall in default incur a penalty not exceeding one hundred pounds; and such successor shall, immediately on assuming the command of the ship enter in the official log a list of the documents so delivered to him.

Naval

Naval Courts on the High Sea and abroad.

260. Any officer in command of any ship of Her Majesty on any foreign station, or, in the absence of such officer, any consular officer, may summon a court, to be termed a "Naval Court," in the following cases; (that is to say,) Naval Courts may be summoned for hearing complaints, and investigating wrecks on the high seas or abroad.

- (1.) Whenever a complaint, which appears to such officer to require immediate investigation, is made to him by the master of any *British* ship, or by any certificated mate, or by one or more of the seamen belonging to any such ship:
- (2.) Whenever the interest of the owner of any *British* ship or of the cargo of any such ship appears to such officer to require it:
- (3.) Whenever any *British* ship is wrecked or abandoned or otherwise lost at or near the place where such officer may be, or whenever the crew or part of the crew of any *British* ship which has been wrecked, abandoned, or lost abroad, arrives at such place.

261. Every such naval court as aforesaid shall consist of not more than five and not less than three members, of whom, if possible, one shall be an officer in the naval service of Her Majesty not below the rank of lieutenant, one a consular officer, and one a master of a *British* merchant ship, and the rest shall be either officers in the naval service of Her Majesty, masters of *British* merchant ships, or *British* merchants; and such court may include the naval or consular officer summoning the same, but shall not include the master or consignee of the ship to which the parties complaining or complained against may belong; and the naval or consular officer in such court, if there is only one such officer in the court, or, if there is more than one, the naval or consular officer, who, according to any regulations for settling their respective ranks for the time being in force, is of the highest rank, shall be the president of such court. Constitution of such Courts.

262. Every such naval court shall hear and investigate the complaint brought before it, or the cause of the wreck or abandonment, (as the case may be,) and may for that purpose summon and compel the attendance of parties and witnesses, and administer oaths, and order the production of documents, and shall conduct the investigation in such manner as to give any person against whom any charge is made an opportunity of making a defence. General functions and mode of action of such Courts.

263. Every such naval court may, after hearing the case, exercise the following powers; (that is to say,) Power of such Courts

(1.)

- To supersede the master: (1.) It may, if unanimous that the safety of the ship or crew, or the interest of the owner, absolutely requires it, supersede the master, and may appoint another person to act in his stead; but no such appointment shall be made without the consent of the consignee of the ship, if then at the place:
- To discharge a seaman: (2.) It may discharge any seaman from his ship:
- To forfeit wages: (3.) It may order the wages of any seaman so discharged or any part of such wages to be forfeited, and may direct the same either to be retained by way of compensation to the owner, or to be paid into the receipt of Her Majesty's exchequer in the same manner as other penalties and forfeitures under this Act:
- To decide disputes as to wages, &c.: (4.) It may decide any questions as to wages, or fines, or forfeitures, arising between any of the parties to the proceedings:
- To direct costs of imprisonment to be paid out of wages: (5.) It may direct that all or any of the costs incurred by the master or owner of any ship in procuring the imprisonment of any seaman or apprentice in a foreign port, or in his maintenance whilst so imprisoned, shall be paid out of and deducted from the wages of such seaman or apprentice, whether then or subsequently earned:
- To send home offenders for trial: (6.) It may exercise the same powers with regard to persons charged before it with the commission of offences at sea or abroad as are by this Act given to *British* consular officers:
- To order payment of costs, &c. (7.) It may order the costs of the proceeding before it (if any), or any portion thereof, to be paid by any of the parties thereto, and may order any person making a frivolous or vexatious complaint to pay compensation for any loss or delay caused thereby; and any cost or compensation so ordered shall be paid by such person accordingly, and may be recovered in the same manner in which the wages of seamen are recoverable, or may, if the case admits, be deducted from his wages:

And all orders duly made by such court under the powers hereby given to it shall in any subsequent legal proceedings be deemed conclusive as to the rights of the parties.

(Further powers are given to "Naval Courts" by *Imp. Act, 18 & 19 Vict., c. 91, s. 18.*)

Orders to be entered in official log.

264. All orders made by any such naval court shall, whenever practicable, be entered in the official log book of the ship to which the parties to the proceedings before it belong, and shall be signed by the President of the court.

265. Every such naval court shall make a report to the board of trade, containing the following particulars ; (that is to say,) Report to be made of proceedings of naval courts.

- (1.) A statement of the proceedings, with the order made by the court, and a report of the evidence :
- (2.) An account of the wages of any seaman or apprentice who is discharged from his ship by such court :
- (3.) If summoned in order to inquire into a case of wreck or abandonment, a statement of the opinion of the court as to the cause of such wreck or abandonment with such remarks on the conduct of the master and crew as the circumstances require :

And every such report shall be signed by the president of the court ; and every document purporting to be such a report and to be so signed as aforesaid shall, if produced out of the custody of some officer of the board of trade, be deemed to be such report, unless the contrary is proved, and shall be received in evidence, subject to all just exceptions.

266. Any person who wilfully and without due cause prevents or obstructs the making of any such complaint as last aforesaid, or the conduct of any case or investigation by any naval court, shall for each such offence incur a penalty not exceeding fifty pounds, or be liable to imprisonment with or without hard labour for any period not exceeding twelve weeks. Penalty for preventing complaint or obstructing investigation.

Crimes committed on the High Seas and abroad.

267. All offences against property or person committed in or at any place either ashore or afloat out of Her Majesty's Dominions by any master, seaman, or apprentice who at the time when the offence is committed is or within three months previously has been employed in any *British* ship shall be deemed to be offences of the same nature respectively, and be liable to the same punishments respectively, and be inquired of, heard, tried, determined, and adjudged in the same manner and by the same courts and in the same places as if such offences had been committed within the jurisdiction of the Admiralty of *England* ; and the costs and expenses of the prosecution of any such offence may be directed to be paid as in the case of costs and expenses of prosecutions for offences committed within the jurisdiction of the Admiralty of *England*. Offences committed by British seamen at Foreign ports to be within admiralty jurisdiction.

268. The following rules shall be observed with respect to offences committed on the high seas or abroad ; (that is to say,) Conveyance of offenders and witnesses to United King-

dom or some
British Posses-
sion.

- (1.) Whenever any complaint is made to any *British* consular officer of any of the offences mentioned in the last preceding section, or of any offences on the high seas having been committed by any master, seaman, or apprentice belonging to any *British* ship, such consular officer may inquire into the case upon oath, and may if the case so requires take any steps in his power for the purpose of placing the offender under necessary restraint and of sending him as soon as practicable in safe custody to the United Kingdom, or to any *British* Possession in which there is a court capable of taking cognizance of the offence, in any ship belonging to Her Majesty or to any of Her subjects, to be there proceeded against according to law :
- (2.) For the purpose aforesaid such consular officer may order the master of any ship belonging to any subject of Her Majesty bound to the United Kingdom or to such *British* Possession as aforesaid to receive and afford a passage and subsistence during the voyage to any such offender as aforesaid, and to the witnesses, so that such master be not required to receive more than one offender for every one hundred tons of his ship's registered tonnage, or more than one witness for every fifty tons of such tonnage ; and such consular officer shall indorse upon the agreement of the ship such particulars with respect to any offenders or witnesses sent in her as the board of trade requires :
- (3.) Every such master shall, on his ship's arrival in the United Kingdom, or in such *British* Possession as aforesaid, give every offender so committed to his charge into the custody of some police officer or constable, who shall take the offender before a justice of the peace or other magistrate by law empowered to deal with the matter, and such justice or magistrate shall deal with the matter as in cases of offences committed upon the high seas :

And any such master as aforesaid who, when required by any *British* consular officer to receive and afford a passage and subsistence to any offender or witness, does not receive him and afford such passage and subsistence to him, or who does not deliver any offender committed to his charge into the custody of some police officer or constable as hereinbefore directed, shall for each such offence incur a penalty not exceeding fifty pounds ; and the expense of imprisoning any such offender and of conveying him and the witnesses to the United Kingdom or to such *British* Possession as aforesaid in any manner other than in the ship to which they respectively belong, shall be part of the costs of the prosecution, or be paid as costs incurred on account of seafaring subjects of Her Majesty left in distress in foreign parts.

269. Whenever any case of death happens on board any foreign-going ship, the shipping master shall on the arrival of such ship at the port where the crew is discharged inquire into the cause of such death, and shall make on the list of the crew delivered to him as herein required an indorsement to the effect either that the statement of the cause of death therein contained is in his opinion true or otherwise, as the result of the inquiry requires; and every such shipping master shall, for the purpose of such inquiry, have the powers hereby given to inspectors appointed by the board of trade under the first part of this Act; and if in the course of such inquiry it appears to him that any such death as aforesaid has been caused by violence or other improper means, he shall either report the matter to the board of trade, or, if the emergency of the case so requires, shall take immediate steps for bringing the offender or offenders to justice.

Inquiry into cause of death on board.

270. Whenever in the course of any legal proceedings instituted in any part of Her Majesty's Dominions before any judge or magistrate, or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, then upon due proof, if such proceeding is instituted in the United Kingdom, that such witness cannot be found in that Kingdom, or if in any *British Possession*, that he cannot be found in the same Possession, any deposition that such witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's Dominions, or any *British* consular officer elsewhere, shall be admissible in evidence subject to the following restrictions; (that is to say),

Depositions to be received in evidence when witness cannot be produced.

- (1.) If such deposition was made in the United Kingdom, it shall not be admissible in any proceeding instituted in the United Kingdom:
- (2.) If such a deposition was made in any *British Possession*, it shall not be admissible in any proceeding instituted in the same *British Possession*:
- (3.) If the proceeding is criminal it shall not be admissible unless it was made in the presence of the person accused:

Every deposition so made as aforesaid shall be authenticated by the signature of the judge, magistrate, or consular officer, before whom the same is made; and such judge, magistrate, or consular officer shall, when the same is taken in a criminal matter, certify, if the fact is so, and that the accused was present at the taking thereof, but it shall not be necessary in any case to prove the signature or official character of the person

person appearing to have signed any such deposition ; and in any criminal proceeding such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified ; but nothing herein contained shall affect any case in which depositions taken in any proceeding are rendered admissible in evidence by any Act of Parliament, or by any Act or Ordinance of the Legislature of any Colony, so far as regards such Colony, or to interfere with the power of any Colonial Legislature to make such depositions admissible in evidence, or to interfere with the practice of any court in which depositions not authenticated as hereinbefore mentioned are admissible.

Registration of and Returns respecting Seamen.

Establishment
of Register
Office.

271. There shall be in the port of *London* an office, to be called the "General Register and Record Office of Seamen," and the board of trade shall have control over the same, and may appoint and from time to time remove a registrar general, and such assistants, clerks and servants as may be necessary, and may from time to time, with the consent of the treasury, regulate their salaries and allowances ; and such salaries and allowances, and all other necessary expenses, shall be paid by the treasury out of any monies to be granted by Parliament for that purpose ; and the board of trade may direct the business of the register office at any of the outports to be transacted at the shipping office, or, with the consent of the commissioner of customs, at the custom house of the port, and may appoint the shipping master, or, with such consent as aforesaid, some officer of customs, to conduct the same ; and such business shall thereupon be conducted accordingly, but shall in all cases be subject to the immediate control of the board of trade.

Register of
seamen to be
kept.

272. The said registrar general of seamen shall, by means of the agreements, lists, and other papers to be transmitted to him as herein directed, or by such other means as are in his power, keep a register of all persons who serve in ships subject to the provisions of this Act.

Lists to be
made for all
ships, contain-
ing certain
particulars.

273. Every master of every foreign-going ship of which the crew is discharged in the United Kingdom, in whatever part of Her Majesty's Dominions the same is registered, and of every home trade ship, shall make out and sign a list in a form sanctioned by the board of trade, containing the following particulars ; (that is to say,)

- (1.) The number and date of the ship's register and her registered tonnage :
- (2.) The length and general nature of the voyage or employment :

(3.)

- (3.) The Christian names, surnames, ages, and places of birth of all the crew, including the master and apprentices, their qualities on board, their last ships or other employments, and the dates and places of their joining the ship :
- (4.) The names of any members of the crew who have died or otherwise ceased to belong to the ship, with the times, places, causes, and circumstances thereof :
- (5.) The names of any members of the crew who have been maimed or hurt, with the times, places, causes, and circumstances thereof :
- (5.) The wages due to any of the crew who have died, at the time of their respective deaths :
- (7.) The clothes and other effects belonging to any of the crew who have died, with a statement of the manner in which they have been dealt with, and the money for which any of them have been sold :
- (8.) The name, age, and sex of every person, not being one of the crew, who dies on board, with the date and the cause thereof :
- (9.) Every birth which happens on board, with the date thereof, the sex of the infant, and the names of the parents :
- (10.) Every marriage which takes place on board, with the date thereof, and the names and ages of the parties.

274. In the case of foreign-going ships, the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged such list as hereinbefore required, and if he fails so to do shall for every default incur a penalty not exceeding five pounds ; and such shipping master shall thereupon give to the master a certificate of such delivery ; and no officer of customs shall clear inwards any foreign-going ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists for foreign-going ships to be delivered to shipping master on arrival.

275. The master or owner of every home trade ship shall, within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom such list as hereinbefore required for the preceding half year, and shall

Lists to be delivered by home trade ships half-yearly.

shall in default incur a penalty not exceeding five pounds ; and such shipping master shall give to the master or owner a certificate of such transmission or delivery ; and no officer of customs shall grant a clearance or *transire* for any home trade ship without the production of such certificate, and any such officer may detain any such ship until the same is produced.

Lists to be sent home in case of transfer of ship and in case of loss.

276. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home trade ship, the master or owner thereof shall, if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship has belonged such list as hereinbefore mentioned, duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds ; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged such list as hereinbefore mentioned duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

Shipping masters and other officers to transmit documents to registrar.

277. All shipping masters and officers of customs shall take charge of all documents which are delivered or transmitted to or retained by them in pursuance of this Act, and shall keep them for such time (if any) as may be necessary for the purpose of settling any business arising at the place where such documents come into their hands, or for any other proper purpose, and shall, if required, produce them for any of such purposes, and shall then transmit them to the registrar general of seamen, to be by him recorded and preserved ; and the said registrar shall, on payment of a moderate fee to be fixed by the board of trade, or without payment of any fee if the board of trade so directs, allow any person to inspect the same ; and in cases in which the production of the original of any such document in any court of justice or elsewhere is essential, shall produce the same, and in other cases shall make and deliver to any person requiring it a certified copy of any such document or of any part thereof ; and every copy purporting to be so made and certified shall be received in evidence, and shall have all the effect of the original of which it purports to be a copy.

Registrar to permit inspection, to produce originals, and give copies.

Officers of customs to make returns of ships to registrar.

278. The collector or comptroller of customs at every port in the United Kingdom shall, on or before the first day of *February* and the first day of *August* in every year, transmit to the registrar general of seamen a list of all ships registered in such port, and also of all ships whose registers have been transferred or cancelled in such port since the last preceding return.

279. The following rules shall be observed with respect to the delivery of documents to *British* consular officers ; (that is to say,) Agreements, indentures, and assignments, on arrival at a foreign port, to be deposited with the consul, and at a colony with the officers of customs.

- (1.) Whenever any ship, in whatever part of Her Majesty's Dominions the same is registered, (except ships whose business for the time being is to carry passengers,) arrives at any foreign port where there is a *British* consular officer, or at any port in any *British* Possession abroad, and remains thereat for forty-eight hours, the master shall, within forty-eight hours of the ship's arrival, deliver to such consular officer, or to the chief officer of customs, (as the case may be,) the agreement with the crew, and also all indentures and assignments of apprenticeships, or, in the case of a ship belonging to a *British* Possession, such of the said documents as such ship is provided with :
- (2.) Such officer shall keep such documents during the ship's stay in such port, and, in cases where any indorsements upon the agreement are hereby required, shall duly make the same, and shall return the said documents to the master a reasonable time before his departure, with a certificate endorsed on the agreement, stating when the same were respectively delivered and returned :
- (3.) If it appears that the required forms have been neglected, or that the existing laws have been transgressed, such officer shall make an indorsement to that effect on the agreement, and forthwith transmit a copy of such indorsement with the fullest information he can collect regarding such neglect or transgression, to the registrar general of seamen :

And if any master fails to deliver any such document as aforesaid he shall for every such default incur a penalty not exceeding twenty pounds ; and in any prosecution for such penalty it shall lie upon the master either to produce the certificate of the consular officer or officer of customs hereinbefore required, or to prove that he duly obtained the same, or that it was impracticable for him so to do.

Official Logs.

280. The board of trade shall sanction forms of official log books, which may be different for different classes of ships, so that each such form contains blanks for the entries hereinafter required ; and an official log of every ship (except ships employed exclusively in trading between ports on the coasts of the United Kingdom) shall be kept in the appropriate sanctioned form ; and such official log may, at the discretion Official logs to be kept in forms sanctioned by board of trade.

discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

281. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates, shall be made and dated so as to show the date of the occurrence and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

282. Every master of a ship, for which an official log book is hereby required, shall make or cause to be made therein entries of the following matters; (that is to say,)

- Convictions.** (1.) Every legal conviction of any member of his crew, and the punishment inflicted :
- Offences.** (2.) Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry, and concerning the reply (if any) made to the charge, as hereinbefore required.
- (See Sec. 244, ante.)
- Punishments.** (3.) Every offence for which punishment is inflicted on board, and the punishment inflicted :
- Conduct, &c., of crew.** (4.) A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars :
- Illnesses and injuries.** (5.) Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any :
- Deaths.** (6.) Every case of death happening on board, and of the cause thereof :
- Births.** (7.) Every birth happening on board, with the sex of the infant and the names of the parents :
- Marriages.** (8.) Every marriage taking place on board, with the names and ages of the parties :
- Quitting ship.** (9.) The name of every seaman and apprentice who ceases to be a member of the crew, otherwise than by death, with the place, time, manner, and cause thereof :

(10.)

- (10.) The amount of wages due to any seaman who enters Her Majesty's service during the voyage : Wages of men entering navy.
- (11.) The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom : Wages of deceased seamen.
- (12.) The sale of effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold, and of the sum received for it : Sale of deceased men's effects.
- (13.) Every collision with any other ship, and the circumstances under which the same occurred. Collisions.

283. The entries hereby required to be made in official log books shall be signed as follows; that is to say, every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, or death shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to or of the sale of the effects of any seaman or apprentice who dies shall be signed by the master and by the mate and some other member of the crew; and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master, and by the seaman or by the officer authorized to receive the seaman into such service. Entries how to be signed.

284. The following offences in respect of official log books shall be punishable as hereinafter mentioned; (that is to say,) Penalties in respect of official logs.

- (1.) If in any case an official log book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding five pounds :
- (2.) Every person who makes or procures to be made or assists in making any entry in any official log book in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding thirty pounds :
- (3.) Every person who wilfully destroys or mutilates or renders illegible any entry in any official log book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log book, shall for each such offence be deemed guilty of a misdemeanor.

Entries in official logs to be received in evidence.

285. All entries made in any official log book as hereinbefore directed shall be received in evidence in any proceeding in any court of justice, subject to all just exceptions.

Official logs to be delivered to shipping master.

286. In the case of foreign-going ships the master shall, within forty-eight hours after the ship's arrival at her final port of destination in the United Kingdom, or upon the discharge of the crew, whichever first happens, deliver to the shipping master before whom the crew is discharged the official log book of the voyage; and the master or owner of every home trade ship, not exclusively employed in trading between ports on the coasts in the United Kingdom, shall, within twenty-one days after the thirtieth day of *June* and the thirty-first day of *December* in every year, transmit or deliver to some shipping master in the United Kingdom the official log book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log book as hereby required shall be subject to the same consequences and liabilities to which he is hereby made subject for the non-delivery of the list of his crew hereinbefore mentioned.

Official logs to be sent home in case of transfer of ship, and in case of loss.

287. If any ship ceases by reason of transfer of ownership or change of employment to fall within the definition of a foreign-going or of a home-trade ship, the master or owner thereof shall if such ship is then in the United Kingdom, within one month, and if she is elsewhere, within six months, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time at which she ceased to be a foreign-going or home trade ship, and in default shall for each offence incur a penalty not exceeding ten pounds; and if any ship is lost or abandoned, the master or owner thereof shall, if practicable, and as soon as possible, deliver or transmit to the shipping master at the port to which the ship belonged the official log book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding ten pounds.

East Indies and Colonies.

Provisions of Act, as applied by East Indian and Colonial Governments to their own ships, may be enforced throughout the Empire.

288. If the Governor-General of *India* in Council or the respective legislative authorities in any *British Possession* abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any *British* ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same are applied,

plied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted, throughout Her Majesty's Dominions, in the same manner as if such provisions had been hereby so adopted and applied, and such penalties and punishments had been hereby expressly imposed.

289. Every Act, Ordinance, or other form of law to be passed or promulgated by the Governor-General of India in Council, or by any other legislative authority, in pursuance of this Act, shall respectively be subject to the same rights of disallowance or repeal, and require the same sanction or other acts and formalities, and be subject to the same conditions in all respects, as exist and are required in order to the validity of any other Act, Ordinance, or other form of law passed by such Governor-General in Council or other legislative authority respectively.

East Indian and Colonial Acts to be subject to disallowance, and require sanction as in other cases.

290. If in any matter relating to any ship or to any person belonging to any ship there appears to be conflict of laws, then, if there is in the third part of this Act any provision on the subject which is hereby expressly made to extend to such ship, the case shall be governed by such provision, and if there is no such provision the case shall be governed by the law of the place in which such ship is registered.

Conflict of laws.

PART IV.

SAFETY AND PREVENTION OF ACCIDENTS.

Application.

291. The fourth part of this Act shall apply to all British ships; and all foreign steam ships carrying passengers between places in the United Kingdom shall be subject to all the provisions contained in the fourth part of this Act, and likewise to the same provisions with respect to the certificates of the masters and mates thereof to which British steam ships are subject.

Application of Part IV. of Act.

(Sec. 292 prescribes certain rules with respect to boats and life-buoys to be carried by certain ships proceeding to sea from any place in the United Kingdom.)

(Sec. 293 provides penalties in case of masters or owners of such ships neglecting to provide boats and life-buoys.)

(Sec.

(Sec. 294 provides that officers of customs should not clear ships not complying with the above provisions.)

(Secs. 295-299 rescribe rules for the use of lights and fog-signals, and the meeting and passing of ships, but this subject so far as relates to the navigation of Canadian waters is governed by Dom. Act, 31 Vict., c. 58, and see Dom. Act, 32 & 33 Vict., c. 22, s. 53.)

Build and Equipment of Steam Ships.

(Sec. 300 prescribed certain rules, requiring the steamers therein mentioned to be divided by water-tight partitions, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

Equipment of
steam ships.

301. Steam ships shall be provided as follows ; (that is to say,)

- Safety valve.** (1.) Every steam ship of which a survey is hereby required shall be provided with a safety valve upon each boiler, so constructed as to be out of the control of the engineer when the steam is up, and, if such valve is in addition to the ordinary valve, it shall be so constructed as to have an area not less and a pressure not greater than the area of and pressure on that valve :
- Compasses to be adjusted.** (2.) Every sea-going steam ship employed to carry passengers shall have her compasses properly adjusted from time to time ; such adjustment, in the case of ships surveyed as hereinafter mentioned, to be made to the satisfaction of the shipwright surveyor, and according to such regulations as may be issued by the board of trade :
- Fire hose.** (3.) Every sea-going steam ship (unless used solely as a steam tug) shall be provided with a hose adapted for the purpose of extinguishing fire in any part of the ship and capable of being connected with the engines of the ship :
- Signals** (4.) Every sea-going steam ship employed to carry passengers shall be provided with the following means of making signals of distress ; (that is to say,) twelve blue lights or twelve port fires, and one cannon with ammunition for at least twelve charges, or, in the discretion of the master or owner of such ship, with such other means of making signals (if any) as may have previously been approved by the board of trade :
- Shelter for deck passengers.** (5.) Every home trade steam ship employed to carry passengers by sea shall be provided with such shelter for the protection of deck passengers (if any) as the board of trade,

trade, having regard to the nature of the passage, the number of deck passengers to be carried, the season of the year, the safety of the ship, and the circumstances of the case, may require.

And if any steam ship as aforesaid plies or goes to sea from any port in the United Kingdom without being so provided as hereinbefore required, then, for each default in any of the above requisites, the owner shall (if he appears to be in fault) incur a penalty not exceeding one hundred pounds, and the master shall (if he appears to be in fault) incur a penalty not exceeding fifty pounds.

302. If any person places an undue weight on the safety valve of any steam ship, or, in the case of steam ships surveyed as hereinafter mentioned, increases such weight beyond the limits fixed by such engineer surveyor as hereinafter mentioned, he shall, in addition to any other liabilities he may incur by so doing, incur a penalty not exceeding one hundred pounds.

Penalty for
improper
weight on
safety valve.

(See Dom. Acts relating to steamboats and their inspection.)

(Secs. 303-321 relate to the survey in the United Kingdom of steam ships carrying passengers to and from and between places in the United Kingdom. See Dom. Acts respecting steamboats and their inspection.)

Misconduct by Passengers in Steamers.

(Secs. 322 & 323 defined certain offences by passengers and prescribed penalties therefor, but are repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2, and see Secs. 35-38 of that Act. See also Dom. Acts on this subject.)

324. Every person who, having committed any of the offences mentioned in the two last preceding sections or either of them, refuses on application of the master of the ship or of any other person in the employ of the owner thereof to give his name and address, or who on such application gives a false name or address, shall incur a penalty not exceeding twenty pounds, to be paid to the said owner.

Penalty on
persons refus-
ing to give
their name
and address

325. The master of any home trade passenger steam ship may refuse to receive on board thereof any person who by reason of drunkenness or otherwise is in such a state, or misconducts himself in such a manner, as to cause annoyance to other passengers on board, or if such person is on board, may put him on shore at any convenient place; and no person so refused admittance or put on shore shall be entitled to the return of any fare he may have paid.

Power to re-
fuse or remove
passengers
who are drunk
or misconduct
themselves.

Accidents.

Accidents.

Accidents to
steam ships to
be reported to
board of trade.

326. Whenever any steam ship has sustained or caused any accident occasioning loss of life or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency either in her hull or in any part of her machinery, the owner or master shall, within twenty-four hours after the happening of such accident or damage, or as soon thereafter as possible, send to the board of trade, by letter signed by such owner or master, a report of such accident or damage, and of the probable occasion thereof, stating the name of the ship, the port to which she belongs, and the place where she is; and if such owner or master neglect so to do he shall for such offence incur a penalty not exceeding fifty pounds.

(Sec. 327 required notice to be given of the apprehended loss of any steam ship and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see sec. 22 of that Act.)

Collisions to
be entered in
official log

328. In every case of collision, in which it is practicable so to do, the master shall immediately after the occurrence cause a statement thereof, and of the circumstances under which the same occurred, to be entered in the official log book (if any), such entry to be signed by the master, and also by the mate or one of the crew, and in default shall incur a penalty not exceeding twenty pounds.

(Sec. 329 related to the carrying of dangerous goods and is repealed by Imp. Act 36 & 37 Vict., c. 85, s. 33, and see ss. 23-28 of that Act.)

PART V.

PILOTAGE.

(Secs. 330-388 inclusive form the fifth part of the Act and related to pilotage. The application of this part of the Act is limited to the United Kingdom by sec. 330.)

PART VI.

LIGHTHOUSES.

(This part (secs. 389-416 inclusive) relate only to light-houses in the United Kingdom and the adjacent islands and seas and in Heligoland and Gibraltar.)

PART

PART VII.

MERCANTILE MARINE FUND.

(Part VII. (Secs. 417—431 inclusive) has no application to this Colony.)

PART VIII.

WRECKS, CASUALTIES, AND SALVAGE.

(Secs. 432—501 form Part VIII. and all these secs. except the following relate only to wrecks and casualties on or near the coasts of the United Kingdom and to salvage in the United Kingdom and the adjacent islands or have no application to inland waters.)

Salvage by Her Majesty's Ships.

484. In cases where salvage services are rendered by any ship belonging to Her Majesty or by the commander or crew thereof, no claim shall be made or allowed for any loss, damage, or risk thereby caused to such ship, or to the stores, tackle, or furniture thereof, or for the use of any stores or other articles belonging to Her Majesty supplied in order to effect such services, or for any other expense or loss sustained by Her Majesty by reason of such services.

No claim for salvage services to be allowed in respect of loss or risk of Her Majesty's ships or property.

485. No claim whatever on account of any salvage services rendered to any ship or cargo or to any appurtenances of any ship by the commander or crew or part of the crew of any of Her Majesty's ships shall be finally adjudicated upon unless the consent of the admiralty has first been obtained, such consent to be signified by writing under the hand of the secretary to the admiralty; and if any person who has originated proceedings in respect of any such claim fails to prove such consent to the satisfaction of the court, his suit shall stand dismissed and he shall pay all the costs of such proceedings; provided that any document purporting to give such consent and to be signed by the secretary to the admiralty shall be *prima facie* evidence of such consent having been given.

Claims for salvage by Her Majesty's officers not to be determined without consent of Admiralty.

486. Whenever services for which salvage is claimed are rendered to any ship or cargo, or to any part of any ship or cargo, or to any appurtenances of any ship, at any place out of the United Kingdom and the four seas adjoining thereto,

Steps to be taken when salvage services have been rendered by Her Majesty's ships abroad.

by the commander or crew or part of the crew of any of Her Majesty's ships, the property alleged to be salvaged shall, if the salvor is justified by the circumstances of the case in detaining it at all, be taken to some port where there is either a consular officer or a vice-admiralty court; and within twenty-four hours after arriving at such port the said salvor and the master or other person in charge of the property alleged to be salvaged shall each deliver to the consular officer or vice-admiralty judge there a statement verified on oath, specifying, so far as they respectively can, and so far as the particulars required apply to the case,

(1.) The place, condition, and circumstances in which the said ship, cargo, or property was at the time when the services were rendered for which salvage is claimed :

(2.) The nature and duration of the services rendered :

And the salvor shall add to his statement,

(3.) The proportion of the value of the said ship, cargo, and property, and of the freight which he claims for salvage, or the values at which he estimates the said ship, freight, cargo, and property respectively, and the several amounts that he claims for salvage in respect of the same :

(4.) Any other circumstances he thinks relevant to the said claim :

And the said master or other person in charge of the said ship, cargo, or property shall add to his statement,

(3.) A copy of the certificate of registry of the said ship, and of the indorsements thereon, stating any change which (to his knowledge or belief) has occurred in the particulars contained in such certificate; and stating also, to the best of his knowledge and belief, the state of the title to the ship for the time being, and of the incumbrances and certificates of mortgage or sale (if any) affecting the same, and the names, and places of business of the owners and incumbrancers :

(4.) The name and place of business or residence of the freighter (if any) of the said ship, and the freight to be paid for the voyage she is then on :

(5.) A general account of the quantity and nature of the cargo at the time the salvage services were rendered :

(6.) The name and place of business or residence of the owner of such cargo and of the consignee thereof :

(7.)

- (7.) The values at which the said master estimates the said ship, cargo, and property, and the freight respectively, or, if he thinks fit, in lieu of such estimated value of the cargo, a copy of the ship's manifest :
- (8.) The amounts which the master thinks should be paid as salvage for the services rendered :
- (9.) An accurate list of the property saved, in cases where the ship is not saved :
- (10.) An account of the proceeds of the sale of the said ship, cargo, or property, in cases where the same or any of them are sold at such port as aforesaid :
- (11.) The number, capacities, and condition of the crew of the said ship at the time the said services were rendered :
- (12.) Any other circumstances he thinks relevant to the matters in question :
- (13.) A statement of his willingness to execute a bond, in the form in the table marked W. in the schedule hereto, in such amount as the said consular officer or vice-admiralty judge may fix.

487. The said consular officer or judge, as the case may be, shall, within four days after receiving the aforesaid statements, fix the amount to be inserted in the said bond at such sum as he thinks sufficient to answer the demand for the salvage services rendered ; but such sum shall not exceed one-half of the value which in his estimation the said ship, freight, and cargo, or any parts thereof in respect of which salvage is claimed, are worth ; and the said consular officer or judge may, if either of the aforesaid statements is not delivered to him within the time hereby required, proceed *ex parte*, but he shall in no case under this Act require the cargo to be unladen ; and the said consular officer may in any proceeding under this Act relating to salvage take affidavits and receive affirmations.

Consular officer or judge to fix amount for which a bond is to be given.

488. The said consular officer or judge shall send notice of the sum which he has so fixed as aforesaid to the said salvor and the said master ; and upon such master executing a bond in such form as aforesaid, with the said sum inserted therein, in the presence of the said officer or judge (who shall attest the same), and delivering the same to the said salvor, the right of the said salvor to detain or retain possession of the said ship, cargo, or property, or any of them, in respect of the said salvage claim, shall cease.

On master executing bond, the right of detention to cease.

Provisions for additional security in the case of ships owned by persons resident out of Her Majesty's Dominions.

489. If the ship, cargo, or property in respect of which the claim for salvage is made is not owned by persons domiciled in Her Majesty's Dominions, the right of the salvor to detain or retain possession thereof, shall not cease unless the master procures, in addition to the said bond, such security for the due performance of the conditions thereof as the said officer or judge considers sufficient for the purpose, and places the same in the possession or custody of the said officer or judge, or if the salvor so desires, in the possession or custody of the said officer or judge jointly with any other person whom the said salvor appoints for the purpose.

Documents to be sent to England.

490. The said consular officer or judge shall at the earliest opportunity transmit the said statements and documents so sent to him as aforesaid, and a notice of the sum he has so fixed as aforesaid, to the high court of admiralty of *England*, or if the said salvor and the said master or other person in charge as aforesaid agree that the said bond shall be adjudicated upon by any vice-admiralty court, to such court.

Whom the bond shall bind.

491. The said bond shall bind the respective owners of the said ship, freight, and cargo, and their respective heirs, executors, and administrators, for the salvage adjudged to be payable in respect of the said ship, freight, and cargo respectively.

Court in which it is to be adjudicated on.

492. The said bond shall be adjudicated on and enforced by the high court of admiralty in *England*, or if the said salvor and master at the time of the execution of the said bond agree upon any vice-admiralty court, then by such vice-admiralty court; and any such vice-admiralty court may in every proceeding under this Act have and exercise all powers and authorities whatsoever which the said high court of admiralty now has or at any time may have, in any proceeding whatsoever before it; and in cases where any security for the due performance of the conditions of the said bond has been placed in the possession or custody of the said consular officer or vice-admiralty judge or of such officer or judge jointly with any other person, the person or persons having the custody of such security shall respectively deal with the same in such manner as the court that adjudicates on the bond directs.

Power of high court of admiralty to enforce bonds.

493. The said high court of admiralty shall have power to enforce any bond given in pursuance of this Act in any vice-admiralty court in any part of Her Majesty's Dominions; and all courts in *Scotland*, *Ireland*, and the islands of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man* exercising admiralty jurisdiction shall, upon application, aid and assist the high court of admiralty in enforcing the said bonds.

494. Any such salvor as aforesaid of any ship, cargo or property who elects not to proceed under this Act shall have no power to detain the said ship, cargo, or property, but may proceed otherwise for the enforcement of his salvage claim as if this Act had not been passed; and nothing in this Act contained shall abridge or affect the rights of salvors, except in the cases by it provided for. Saving clause.

495. All bonds, statements, agreements, and other documents made or executed in pursuance of the eighth part of this Act shall, if so made or executed out of the United Kingdom, be exempt from stamp duty. Documents free from duty.

496. Every person who, in any proceeding under provisions contained in the eighth part of this Act relating to salvage by Her Majesty's ships, forges, assists in forging, or procures to be forged, fraudulently alters, assists in fraudulently altering, or procures to be fraudulently altered, any document, and every person who in any such proceeding puts off or makes use of any such forged or altered document, knowing the same to be so forged or altered, or who in any such proceeding gives or makes, or assists in giving or making, or procures to be given or made, any false evidence or representation, knowing the same to be false, shall be punishable with imprisonment, with or without hard labour, for any period not exceeding two years, or, if summarily prosecuted and convicted, by imprisonment, with or without hard labour, for any period not exceeding six months. Punishment for forgery and false representation.

Salvage, General.

497. Whenever services for which salvage is claimed are rendered either by the commander or crew or part of the crew of any of Her Majesty's ships, or of any other ship, and the salvor voluntarily agrees to abandon his lien upon the ship, cargo, and property alleged to be salvaged, upon the master or other person in charge thereof entering into a written agreement attested by two witnesses to abide the decision of the said high court of admiralty or of any vice-admiralty court, and thereby giving security in that behalf to such amount as may be agreed on by the parties to the said agreement, such agreement shall bind the said ship and the said cargo and the freight payable therefor respectively, and the respective owners of the said ship, freight, and cargo for the time being, and their respective heirs, executors, and administrators, for the salvage which may be adjudged to be payable in respect of the said ship, cargo, and freight respectively to the extent of the security so given as aforesaid, and may be adjudicated upon and enforced in the same manner as the bonds provided for Voluntary agreement may be made which shall have the same effect as the bond above mentioned.

for by the eighth part of this Act, in the case of detention for salvage services rendered by Her Majesty's ships; and upon such agreement being made the salvor and the master or other person in charge as aforesaid shall respectively make such statements as are hereinbefore required to be made by them in case of a bond being given, except that such statements need not be made upon oath; and the salvor shall, as soon as practicable, transmit the said agreement and the said statements to the court in which the said agreement is to be adjudicated upon.

Powers for
courts having
admiralty
jurisdiction to
apportion sal-
vage.

498. Whenever the aggregate amount of salvage payable in respect of salvage services rendered in the United Kingdom has been finally ascertained, and exceeds two hundred pounds, and whenever the aggregate amount of salvage payable in respect of salvage services rendered elsewhere has been finally ascertained, whatever such amount may be, then if any delay or dispute arises as to the apportionment thereof, any court having admiralty jurisdiction may cause the same to be apportioned amongst the persons entitled thereto in such manner as it thinks just; and may for that purpose, if it thinks fit, appoint any person to carry such apportionment into effect, and may compel any person in whose hands or under whose control such amount may be to distribute the same, or to bring the same into court, to be there dealt with as the court may direct, and may for the purposes aforesaid issue such monitions or other processes as it thinks fit.

(Secs. 498-501 relate only to the United Kingdom. As to wreck and salvage within the limits of Canada, see Dom. Act, 36 Vict., c. 55.)

PART IX.

LIABILITY OF SHIPOWNERS.

Application.

502. The ninth part of this Act shall apply to the whole of Her Majesty's Dominions. Application of Part IX of Act.

Limitation of Liability.

503. No owner of any sea-going ship or share therein shall be liable to make good any loss or damage that may happen without his actual fault or privity of or to any of the following things, (that is to say,) Owner not liable in respect of certain articles.

- (1.) Of or to any goods, merchandise, or other things whatsoever taken in or put on board any such ship, by reason of any fire happening on board such ship.
- (2.) Of or to any gold, silver, diamonds, watches, jewels, or precious stones taken in or put on board any such ship, by reason of any robbery, embezzlement, making away with or secreting thereof, unless the owner or shipper thereof has, at the time of shipping the same, inserted in his bills of lading or otherwise declared in writing to the master or owner of such ship the true nature and value of such articles,

To any extent whatever.

(Sec. 504 limited the liability of the owner in certain cases, but is repealed by Sec. 2 of Imp. Act, 25 & 26 Vict., c. 63, and other provision on the same subject is made by Sec. 54 of that Act.)

(Sec. 505 provided that for the purposes of the ninth part of this Act, the freight should be deemed to include the value of the carriage of any goods or merchandise belonging to the owners of the ship, passage money, and also the hire due or to grow due under or by virtue of any contract, except only such hire, in the case of a ship hired for time, as might not begin to be earned until the expiration of six months after such loss or damage, but is repealed by Imp. Act, 25 & 26 Vict., c. 63, s. 2.)

506. The owner of every sea-going ship or share therein shall be liable in respect of every such loss of life, personal injury, loss of or damage to goods as aforesaid arising on distinct occasions to the same extent as if no other loss, injury, or damage had arisen. Provision for separate losses.

(See Imp. Act, 25 & 26 Vict., c. 63, s. 56.)

Mode

Mode of Procedure.

(Secs. 507–513 inclusive regulate the mode of procedure in such cases in the United Kingdom.)

Proceedings
in case of
several claims
being made on
owner of ship.

514. In cases where any liability has been or is alleged to have been incurred by any owner in respect of loss of life, personal injury, or loss of or damage to ships, boats, or goods, and several claims are made or apprehended in respect of such liability, then, subject to the right hereinbefore given to the board of trade of recovering damages in the United Kingdom in respect of loss of life or personal injury, it shall be lawful in *England* or *Ireland* for the high court of chancery, and in *Scotland* for the court of session, and in any *British* Possession for any competent court to entertain proceedings at the suit of any owner for the purpose of determining the amount of such liability subject as aforesaid, and for the distribution of such amount rateably amongst the several claimants, with power for any such court to stop all actions and suits pending in any other court in relation to the same subject matter and any proceeding entertained by such court of chancery or court of session, or other competent court, may be conducted in such manner and subject to such regulations as to making any person interested parties to the same, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the owner, and as to payment of costs, as the court thinks just.

Money paid
for damage
how to be ac-
counted for
between part
owners.

515. All sums of money paid for or on account of any loss or damage in respect whereof the liability of the owners of any ship is limited by the ninth part of this Act, and all costs incurred in relation thereto, may be brought into account among part owners of the same ship in the same manner as money disbursed for the use thereof.

Saving Clause.

Saving clause:

516. Nothing in the ninth part of this Act contained shall be construed—

To lessen or take away any liability to which any master or seaman, being also owner or part owner of the ship to which he belongs, is subject in his capacity of master or seaman; or

To extend to any *British* ship not being a recognized *British* ship within the meaning of this Act.

PART X.

LEGAL PROCEDURE.

Application.

517. The tenth part of this Act shall in all cases, where Application of Part X of the Act. no particular country is mentioned, apply to the whole of Her Majesty's Dominions.

Legal Procedure (General.)

(See *Dom. Act, 38 Vict., c. 29.*)

518. In all places within Her Majesty's Dominions, except *Scotland*, the offences hereafter mentioned shall be punished and penalties recovered in manner following; (that is to say,) Punishment of offences, and recovery of penalties.

- (1.) Every offence declared by this Act to be a misdemeanour shall be punishable by fine or imprisonment, with or without hard labour; and the court before which such offence is tried may in *England* make the same allowances and order payment of the same costs and expenses as if such misdemeanour had been enumerated in the Act passed in the seventh year of His late Majesty King *George* the Fourth, chapter sixty-four, or any other Act 7 G 4, c. 64. that may be passed for the like purpose; and may in any other part of Her Majesty's Dominions make such allowances and order payment of such costs and expenses (if any) as are payable or allowable upon the trial of any misdemeanour under any existing Act or Ordinance, or as may be payable or allowable under any Act or law for the time being in force therein :
- (2.) Every offence declared by this Act to be a misdemeanour shall also be deemed to be an offence hereby made punishable by imprisonment for any period not exceeding six months, with or without hard labour, or by a penalty not exceeding one hundred pounds, and may be prosecuted accordingly in a summary manner instead of being prosecuted as a misdemeanour :

(*Sub-Secs. 3 & 4 applied only to proceedings in England and Ireland.*)

- (5.) All offences under this Act shall in any *British Possession* be punishable by any court or by any justice of the peace or magistrate in which or by whom offences of a like character are ordinarily punishable, or in such other manner, or by such other courts, justices, or magistrates,

trates, as may from time to time be determined by any Act or Ordinance duly made in such Possession in such manner as Acts and Ordinances in such Possession are required to be made in order to have the form of law.

Stipendiary
magistrate to
have same
power as two
justices.

519. Any stipendiary magistrate shall have full power to do alone whatever two justices of the peace are by this Act authorized to do.

Offence where
deemed to
have been
committed.

520. For the purpose of giving jurisdiction under this Act, every offence shall be deemed to have been committed, and every cause of complaint to have arisen, either in the place in which the same actually was committed or arose, or in any place in which the offender or person complained against may be.

Jurisdiction
over ships
lying off the
coasts.

521. In all cases where any district within which any court or justice of the peace or other magistrate has jurisdiction either under this Act or any other Act or at common law, for any purpose whatever, is situate on the coast of any sea, or abutting on or projecting into any bay, channel, lake, river, or other navigable water, every such court, justice of the peace, or magistrate, shall have jurisdiction over any ship or boat being on or lying or passing off such coast, or being in or near such bay, channel, lake, river, or navigable water as aforesaid, and over all persons on board such ship or boat or for the time being belonging thereto, in the same manner as if such ship, boat, or persons were within the limits of the original jurisdiction of such court, justice or magistrate.

Service to be
good if made
personally, or
on board ship.

522. Service of any summons or other matter in any legal proceeding under this Act shall be good service, if made personally on the person to be served, or at his last place of abode, or if made by leaving such summons for him on board any ship to which he may belong with the person being or appearing to be in command or charge of such ship.

Sums ordered
to be paid
leviable by
distress on
ship.

523. In all cases where any court, justice or justices of the peace, or other magistrate, has or have the power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship, and the same is not paid at the time and in manner prescribed in the order, the court, justice or justices, or other magistrate who made the order, may, in addition to any other powers they or he may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress or pointing and sale of the said ship, her tackle, furniture and apparel.

524. Any court, justice, or magistrate imposing any penalty under this Act, for which no specific application is herein provided, may, if it or he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or to be applied in or towards payment of the expenses of the proceedings; and, subject to such directions or specific application as aforesaid, all penalties recovered in the United Kingdom shall be paid into the receipt of Her Majesty's exchequer in such manner as the Treasury may direct, and shall be carried to and form part of the consolidated fund of the United Kingdom; and all penalties recovered in any *British Possession* shall be paid over into the public treasury of such Possession, and form part of the public revenue thereof.

Application of penalties.

525. The time for instituting summary proceedings under this Act shall be limited as follows; (that is to say,)

Limitation of time in summary proceedings.

- (1.) No conviction for any offence shall be made under this Act in any summary proceedings instituted in the United Kingdom unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to such proceeding happen during such time to be out of the United Kingdom, unless the same is commenced within two months after they both first happen to arrive or to be at one time within the same:
- (2.) No conviction for any offence shall be made under this Act in any proceeding instituted in any *British Possession*, unless such proceeding is commenced within six months after the commission of the offence; or if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction of any court capable of dealing with the case, unless the same is commenced within two months after they both first happen to arrive or to be at one time within such jurisdiction:
- (3.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in the United Kingdom unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties happen during such time to be out of the United Kingdom, unless the same is commenced within six months after they both first happen to arrive or to be at one time within the same:
- (4.) No order for the payment of money shall be made under this Act in any summary proceeding instituted in any *British*

British Possession unless such proceeding is commenced within six months after the cause of complaint arises; or, if both or either of the parties to the proceeding happen during such time not to be within the jurisdiction, of any court capable of dealing with the case, unless the same is commenced within six months after they both first happen to arrive or be at one time within such jurisdiction:

And no provision contained in any other Act or Acts, Ordinance or Ordinances, for limiting the time within which summary proceedings may be instituted shall affect any summary proceeding under this Act.

Document
proved with-
out calling
attesting wit-
nesses.

526. Any document required by this Act to be executed in the presence of or to be attested by any witness or witnesses, may be proved by the evidence of any person who is able to bear witness to the requisite facts, without calling the attesting witness or witnesses or any of them.

(Sec 527 gives power to Courts of Record or Admiralty in the United Kingdom to arrest any foreign ship which has occasioned damage to property of Her Majesty or of Her subjects.)

(Sec. 528 gives power to certain officers to detain such foreign ships in certain cases without an application to the Court.)

(Sec. 529 provided who should be defendants in such cases.)

(Secs. 530—543 inclusive govern legal procedure in Scotland under this Act.)

PART XI.

MISCELLANEOUS.

(Sec. 544 legalized certain contracts with Lascars or natives of the East Indies to serve as seamen.)

545. Nothing in this Act contained shall be taken to repeal or alter any of the provisions of the "Passengers Act, 1852," or of the Act of the seventeenth year of Her present Majesty, chapter eighty-four.

Act not to affect passenger Acts, 15 & 16, Vict. c. 44, 16 & 17 Vict. c. 84.

(Sec. 546 provided for the granting of sites for sailors' homes in British seaports.)

547. The Legislative Authority of any British Possession shall have power, by any Act or Ordinance, confirmed by Her Majesty in Council, to repeal, wholly or in part, any provisions of this Act relating to ships registered in such Possession; but no such Act or Ordinance shall take effect until such approval has been proclaimed in such Possession or until such time thereafter as may be fixed by such Act or Ordinance for the purpose.

Power of colonial legislatures to alter provisions of Act.

548. All expenses incurred by the commissioners of customs in the conduct of suits or prosecutions, or otherwise in carrying into effect the provisions of this Act, shall be considered as expenses having reference to the revenue of customs, and shall be paid out of the consolidated customs; but the board of trade may, with the consent of the treasury, repay out of the mercantile marine fund all or any part of such of the expenses so paid as are by the provisions of this Act chargeable on the said fund.

Expenses incurred by commissioners of customs to be paid out of the consolidated customs.

SCHEDULE to which this Act refers.

FORM A. (See Section 36.)

CERTIFICATE OF SURVEYOR.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks. Number of Masts. Rigging	<i>Nature of, and whether standing or running Bowsprit. Round, square, or other description.</i>	Build.....	<i>Carvel or Clincher.</i>
Stern.....		Gallery	<i>Description of.</i>
		Head.....	<i>Kind of.</i>
		Framework ..	<i>Wood or other material.</i>
<i>Measurements.</i>			<i>Feet. Tenths.</i>
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			<i>No. of Tons.</i>
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks.....			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>			<i>Tons.</i>
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{32}$ ths, or as measured).....			
Length of engine room (if measured).....			<i>Feet. Tenths.</i>
Engines			<i>Number of Engines.</i>
Combined power (estimated horse-power).....			<i>No. of Horses-power.</i>
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

I, the undersigned A. B., of _____, having surveyed the above-named ship, hereby certify that the above particulars are true.

Dated at _____ the _____ day of _____ 18 ____ (Signed) _____

FORM

FORM B. (See Section 38.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.	
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>	
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit. Round, square or other description.</i>	Build	<i>Carvel or Clincher.</i>	
Number of Masts.		Gallery	<i>Description of.</i>	
Rigging		Head	<i>Kind of</i>	
Stern		Framework...	<i>Wood or other material.</i>	
<i>Measurements.</i>			Feet. Tenths.	
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost				
Main breadth to outside of plank				
Depth in hold from tonnage deck to ceiling at midships.				
<i>Tonnage.</i>			No. of Tons.	
Tonnage under tonnage deck				
Closed-in spaces above the tonnage deck, if any; viz.				
Space or spaces between decks				
Poop				
Roundhouse				
Other inclosed spaces, if any, naming them				
Total				
<i>(a) Additional Particulars for Steamers.</i>			Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{150}$ ths, or as measured)				
			Feet. Tenths.	
Length of engine room (if measured)				
Engines			Number of Engines.	
Combined power (estimated horse-power)			No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }				

(a) Omit this part if she has no steam power.

I, the undersigned A. B. of
as follows :

in the County of

declare

(1.) I am a natural born British subject, born at [naming birth-place,]

and have never taken the Oath of
Allegiance to any Foreign State. }

or

{ and have since I took the Oath of Allegiance to a Foreign State [naming State], and on the day of , taken the Oath of Allegiance to Her Majesty, and am resident at* [naming place], being a place within Her Majesty's Dominions.

or

I am

*If the Declarant is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in

addition, that I am
 "he is a mem-
 "ber of some
 "British fac-
 "tory, or part-
 "ner in some
 "house actually
 "carrying on
 "business in the
 "United King-
 "dom, or in
 "some British
 "Possession"
 [naming the
 house and also
 the place where
 it carries on its
 business].

a denizen by Let-
 ters of Denization
 dated the
 day of

or

{ naturalized by Act of
 Parliament of the
 United Kingdom of
 [cite the year of
 the Reign in which
 the Act was passed,
 its Chapter and
 Title.

or

{ naturalized by an
 Ordinance of the
 proper Legislative
 Authority of
 [naming British
 Possession], [cite
 the year in which
 the Ordinance was
 passed, its Chapter
 and Title.

and am resident at [naming place], being a place within Her Majesty's Domi-
 nions.

And I have

since I so became a)
 denizen,)
 and on the day of

or

{ since the passing of the said Act or Ordi-
 nance
 taken the Oath of Allegiance to Her
 Majesty.

(2.) The ship, the description of which is prefixed to this my declaration,
 was built at

{ naming the coun-
 try and place } on
 the day of
 , and her
 Foreign name is
 [these words to be
 added if the ship is
 Foreign.]

or

{ is Foreign-built, and
 I do not know the
 time when or the
 place where she
 was built, and her
 Foreign name is

or

{ was condemned by
 the Court of [naming
 Court] on the
 day of
 at

(3.) C. D.

of

is the master of the said ship.

*If the Decla-
 ration is made
 by a joint
 owner, add the
 word "joint"
 before owner.

(4.) I am entitled to be registered as* owner of shares in the
 said ship.

(5.) To the best of my knowledge and belief, no person or body of persons,
 other than such person or bodies of persons as are by The Merchant Shipping
 Act, 1854, qualified to be owners of British ships, is entitled as owner to any
 interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be
 true.

Dated at
 the day of 18 .

(Signed) _____

Made and subscribed by the above-
 named A. B. in the presence of
 me.

(Signed) _____ [Name of Registrar or Justice of the
 Peace acting in and for

FORM C. (See Section 39.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE AS OWNER.

Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks. Number of Masts. Rigging	<i>Nature of, and whether standing or running Bowsprit. Round, square, or other description.</i>	Build	<i>Carvel or Clincher.</i>
		Gallery	<i>Description of.</i>
		Head	<i>Kind of</i>
Stern		Framework ...	<i>Wood or other material.</i>
<i>Measurements.</i>			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
<i>(a) Additional Particulars for Steamers.</i>			Tons.
Deduction for space required for propelling power (say whether $\frac{A}{100}$ ths or $\frac{B}{100}$ ths, or as measured).....			
Length of engine room (if measured).....			Feet. Tenths.
Engines			Number of Engines.
Combined power (estimated horse-power)			No. of Horses-power.
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }			

(a) Omit this part if the has no steam power.

I, the undersigned *A. B.*, of in the County of [Secretary]
or [duly appointed public officer], of the Company, declare as follows:

(1.) The said Company was incorporated by or by virtue of

an Act

an Act of Par- liament of the United King- dom [<i>cite the year of the Reign in which the Act was passed, its Chapter and Title.</i>]	} or {	a Charter granted by Her Majesty, and dated the day of	} or {	an Act or Ordi- nance of the Legislature of [<i>cite the year in which the Act or Ordi- nance was passed, its Chapter and Title.</i>]	} or {	the Act, 7 & 8 Vict., c. 110, from the day of being the date of the cer- tificate of com- plete registra- tion.
---	--------	--	--------	--	--------	---

(2.) The said Company is subject to the laws

of the United Kingdom, } or { or of the British Possession of

and has its principal place of business at

(3.) The ship, the description of which is prefixed to this my Declaration, was built at

[naming the country and place] on the day of , and her Foreign name is [These words to be added if the ship is Foreign.]	} or {	is Foreign-built, and I do not know the time when or the place where she was built, and her Fo- reign name is	} or {	was condemned by the Court of [naming Court] on the day of at
--	--------	--	--------	---

(4.) C. D. of is the Master of the said ship.

(5.) The said Company is entitled to be registered as owner of shares in the said ship.

(6.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18 .

Made and subscribed by the above-named A. B.
in the presence of me

(Signed) _____ [Name of Registrar.]

FORM D. (See Section 44.)

CERTIFICATE OF REGISTRY.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit. Round, square, or other description.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework ...	<i>Wood or other material.</i>
<i>Measurements.</i>			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>			No. of Tons.
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any, viz. . . .			
Space or spaces between decks			
Poop			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) <i>Additional Particulars for Steamers.</i>			Tons.
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{80}$ ths, or as measured).....			
Length of engine room (if measured)			Feet. Tenths.
Engines			Number of Engines.
Combined power (estimated horse-power)			No. of Horses-power.
Register tonnage, (after making deduction for) Space for propelling power in steamers) (n))			

(a) *Omit this part if she has no steam power.*

I, the undersigned A. B., Registrar of the Port of _____, hereby certify, that,

(1.) The ship, the description of which is prefixed to this my Certificate, has been duly surveyed, and that the above description is true.

(2.) C. D. of _____ is the master of the said ship.

(3.) The

(3.) The said ship was built at [naming the country and place] on the day of and her Foreign name is [these words to be added if the ship is Foreign.] or { is Foreign-built, and the time when and the place where she was built is not known, and her Foreign name is } or { was condemned by the Court of [naming Court] on the day of at }

(4.) The several persons and bodies corporate whose names are hereunder written [or endorsed] are owners of the above ship, in the proportions set opposite their respective names.

(Signed) _____ Registrar.

Name of the several owners above [or within] mentioned.	Number of Sixty-fourth Shares held by each owner.
[Name.] _____ _____ _____	Thirty-two. Sixteen. Eight. Eight.

(Signed) _____ Registrar.

Dated at
the day of 18 .

Notice.—A Certificate of Registry granted under The Merchant Shipping Act, 1854, is not a document of title. It does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

FORM E. (See Section 55.)

BILL OF SALE.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square, or other description.	Build	Carvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging		Head	Kind of.
Stern		Framework ...	Wood or other material.
Measurements.		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.		No. of Tons.	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz.			
Space or spaces between decks			
Poop			
Roundhouse			
Other inclosed spaces, if any, naming them			
Total			
(a) Additional Particulars for Steamers.		Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{80}$ ths, or as measured)			
Length of engine room (if measured)		Feet.	Tenths.
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for Space for propelling power in steamers) (a)			

(a) Omit this part if she has no steam power.

I, A. B. of _____ in the County of _____, being owner of shares in the ship above particularly described, in consideration of £ _____ paid to me by C. D. of _____ in the County of _____ transfer to the said C. D. the said shares.

hereby

Further

After as necessary if there be more than one owner.

Further I, *A B.*, for myself and heirs, covenant with the said *C. D.* and his assigns that I have power to transfer in manner aforesaid the said shares, and that the same are free from incumbrances* *save as appears by the Registry of the words in the said ship.*

* Omit, if no
Incumbrances,
the words in
Italics.

In witness whereof I have hereunto subscribed my name and affixed my seal,
this day of 18 .

(L. S.)

(Signed) _____

Executed by the above-named
in the presence of

_____ [insert description and place of residence.]

FORM F. (See Section 56.)

DECLARATION OF OWNERSHIP BY INDIVIDUAL TRANSFERREE.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square, or other description.	Build	Garvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging		Head	Kind of.
Stern		Framework...	Wood or other material.
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the after part of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{3}{100}$ ths or $\frac{1}{100}$ ths, or as measured).....			
Length of engine room (if measured).....			Feet. Tenths.
Engines			Number of Engines.
Combined power (estimated horse-power)			No. of Horses-power.
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) :			

(a) Omit this part if she has no steam power.

I, the undersigned A. B., of _____ in the County of _____
declare as follows :

(1.) I am a natural-born subject of Her Majesty, born at [naming place of birth.]

and

**If the Declarant is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in addition, that "he is a member of some British factory, or partner in some house actually carrying on business in the United Kingdom, or in some British Possession" [naming the house and also the place where it carries on its business].*

and have never taken the Oath of Allegiance to any Foreign State. }

or

and have since I took the Oath of Allegiance to a Foreign State [naming State], and on the day of _____, taken the Oath of Allegiance to Her Majesty, and am resident at [naming place], being a place within Her Majesty's Dominions.

or

I am

a denizen by Letters of Denization dated the _____ day of _____

or { naturalized by Act of Parliament of the United Kingdom [cite the year in which the Act was passed, its Chapter and Title.]

or { naturalized by an Ordinance of the proper Legislative Authority of [naming British Possession], [cite the year in which the Ordinance was passed, its Chapter and Title.]

and am resident at [naming place], being a place within Her Majesty's Dominions.

And I have

since I so became a denizen, and on the _____ day of _____ since the passing of the said Act or Ordinance taken the Oath of Allegiance to Her Majesty.

(2.) To the best of my knowledge and belief, no person or body of persons, other than such person or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

Dated at _____ the _____ day of _____ 18 ____.

(Signed) _____

Made and subscribed by the above-named A. B. in the presence of me.

(Signed) _____ [Name of Registrar or Justice of the Peace acting in and for _____]

FORM G. (See Section 56.)

DECLARATION OF OWNERSHIP ON BEHALF OF A BODY CORPORATE
AS TRANSFERREE.

No. _____			Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.	
			By steam or sails, and if by steam, whether by paddle or screw.	
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square or other description.	Build	Carvel or Clincher.	
Number of Masts.		Gallery	Description of.	
Rigging		Head	Kind of.	
Stern		Framework...	Wood or other material.	
Measurements.			Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the after side of the head of the sternpost				
Main breadth to outside of plank				
Depth in hold from tonnage deck to ceiling at midships.				
Tonnage.			No. of Tons.	
Tonnage under tonnage deck				
Closed-in spaces above the tonnage deck, if any; viz....				
Space or spaces between decks				
Poop				
Roundhouse				
Other inclosed spaces, if any, naming them				
Total				
(a) Additional Particulars for Steamers.			Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{200}$ ths, or as measured)				
Length of engine room (if measured)			Feet.	Tenths.
Engines			Number of Engines.	
Combined power (estimated horse-power)			No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }				

(a) Omit this part if she has no steam power.

I, the undersigned *A. B.* of _____ in the County of _____ [Secretary]
or [duly appointed public officer], of the _____ Company, declare as
follows :

(1.) The

(1.) The said Company was incorporated by or by virtue of

an Act of Par- liament of the United King- dom [cite the year in which the Act was passed, its Chapter and Title.]	} or {	a Charter granted by Her Majesty. and dated the day of	} or {	an Act or Ordi- nance of the Legislature of [cite the year in which the Act or Ordi- nance was passed, its Chapter and Title.]	} or {	the Act, 7 & 8 Vict., c. 110, from the day of being the date of the cer- tificate of com- plete registra- tion.
--	--------	--	--------	---	--------	---

(2.) The said Company is subject to the laws

of the United Kingdom, } or { or of the British Possession of

and has its principal place of business at

(3.) The said Company is entitled to be registered as transferee of shares in the said ship.

And I make this solemn Declaration conscientiously believing the same to be true.

(Signed) _____

Dated at
the day of 18 .

Made and subscribed by the above-named A. B.
in the presence of me

(Signed) _____ [Name of Registrar.]

FORM H. (See Section 58.)

DECLARATION BY OWNER TAKING BY TRANSMISSION.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit. Round, square, or other description.</i>	Build.....	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head.....	<i>Kind of.</i>
Stern.....		Framework ..	<i>Wood or other material.</i>
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks.....			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{3}{100}$ ths or $\frac{33}{100}$ ths, or as measured).....			
Length of engine room (if measured).....			Feet. Tenths.
Engines.....			Number of Engines.
Combined power (estimated horse-power).....			No. of Horses-power.
Register tonnage, (after making deduction for Space for propelling power in steamers) (a))			

I, the undersigned A. B. of
as follows :

in the County of

declare

(1.) I am a natural born British subject, born at [naming place of birth.]

and

(b) *After accordingly if more than one person makes the declaration.*

*If the Declarant is a natural-born subject, who has taken the Oath of Allegiance to a Foreign State, or a denizen or a naturalized subject, and is resident in a country not within Her Majesty's Dominions, he must declare, in addition, that "he is
"a member of
"some British
"factory, partner
"in some house
"actually carrying on business
"in the United Kingdom, or in
"some British Possession,"
[naming the house and also the place where it carries on its business.]

† After according to circumstances.

and have never taken the Oath of Allegiance to any Foreign State } or

I am

a denizen by Letters of Denization dated the Day of

and am resident at [naming place], being a place within Her Majesty's Dominions.

And I have

since I so became a denizen, } or
and on the Day of

{ and have since I took the Oath of Allegiance to a Foreign State [naming State] and on the day of taken the Oath of Allegiance to Her Majesty, and am resident* at [naming place] being a place within Her Majesty's Dominions.
or

{ naturalized by Act of Parliament of the United Kingdom [cite the year in which the Act was passed, its Chapter and Title].

{ naturalized by an Ordinance of the proper legislative authority of [naming British Possession] [cite the year in which the Ordinance was passed, its Chapter and Title.]

We declare that C. D., the person appearing on the register book to be the owner of shares in the ship above described, was on the day of
† [duly adjudged a bankrupt] or [declared insolvent], and that we were on the day of appointed Assignees of the said C. D., and we are by Law entitled to be registered as owners of the said shares of the said ship in place of the said C. D.

I declare that on the day of I intermarried with and am now the husband of C. D., the person appearing on the register book to be the owner of shares in the said ship, and I declare that on such marriage the interest of the said C. D. became by law vested in me, and that I am entitled to be registered as owner of the said shares in the place of the said C. D.

(3.) To the best of my knowledge and belief, no person or body of persons, other than such persons or bodies of persons as are by The Merchant Shipping Act, 1854, qualified to be owners of British ships, is entitled as owner to any interest whatever, either legal or beneficial, in the said ship.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Dated at the day of 18 .

Made and subscribed by the above-named A. B.,
in the presence of me

(Signed) _____ { Name of Registrar or Justice of the Peace acting in and for

FORM I. (See Section 66.)

FORM OF MORTGAGE.

No. _____			Date of Registry.	
Name of Ship.		British or Foreign Built.	Port of Registry.	How propelled.
				By steam or sails, and if by steam, whether by paddle or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square, or other description.	Build.....	Carvel or Clincher.	
Number of Masts.		Gallery	Description of.	
Rigging		Head.....	Kind of.	
Stern.....		Framework ..	Wood or other material.	
Measurements.			Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....				
Main breadth to outside of plank.....				
Depth in hold from tonnage deck to ceiling at midships.				
Tonnage.			No. of Tons.	
Tonnage under tonnage deck.....				
Closed-in spaces above the tonnage deck, if any; viz....				
Space or spaces between decks.....				
Poop.....				
Roundhouse.....				
Other inclosed spaces, if any, naming them.....				
Total.....				
(a) Additional Particulars for Steamers.			Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{200}$ ths, or as measured).....				
Length of engine room (if measured).....			Feet.	Tenths.
Engines			Number of Engines.	
Combined power (estimated horse-power).....			No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }				

(a) Omit this part if she has no steam power.

I, the undersigned A. B. of _____ in the County of _____ in con-
sideration of £ _____ this day lent to me by C. D. of _____ as may be ne-
County of _____ do hereby for myself and my heirs covenant with the _____ cessary so as to
said C. D. firstly, that I, or my heirs, executors, or administrators, will pay to the _____ secure a general
the said C. D. the said sum of £ _____ together with interest thereon at the _____ balance of ac-
rate _____ wise, as the case
may require.

rate of £ by the £100 in the year, on the day of next;
 and, secondly, that if the said principal sum is not paid on the said day, I, or
 my heirs, executors, or administrators, will, during such time as the same or
 any part thereof remains unpaid, pay to the said C. D. interest on the whole or
 such part thereof as may for the time being remain unpaid at the rate of
 £ by the £100 in the year, by equal half-yearly payments, on the
 day of and day of in every year; and for better
 securing to the said C. D. the repayment in manner aforesaid of the said prin-
 cipal sum and interest, I hereby mortgage to the said C. D. shares, of
 which I am the owner in the ship above particularly described.

Lastly, I, A. B., for myself and my heirs, covenant with the said C. D. and
 his assigns, that I have power to mortgage in manner aforesaid the above-
 mentioned shares, and that the same are free from incumbrances* *save as ap-*
** Omit, if no* *pears by the Registry of the said ship.*
Incumbrances,
the words in
Italics.

In witness whereof I have hereto subscribed my name and affixed my seal,
 this day of

(L.S.)

(Signed) _____

Executed by the above-named A. B.
 in the presence of X. Y.

FORM K. (See Section 73.)

TRANSFER OF MORTGAGE TO BE ENDORSED ON ORIGINAL MORTGAGE.

I, the within mentioned C. D. in consideration of £ this day
 paid to me by X. Y. of in the County of hereby transfer
 to him the benefit of the within written security. In witness whereof I have
 hereunto subscribed my name and affixed my seal, this the day
 of

(L.S.)

(Signed) _____

Executed by the above-named C. D.
 in the presence of E. F.

FORM L. (See Section 74.)

DECLARATION BY MORTGAGEE TAKING BY TRANSMISSION.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddle or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework...	<i>Wood or other material.</i>
<i>Measurements.</i>		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
<i>Tonnage.</i>		No. of Tons.	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) <i>Additional Particulars for Steamers.</i>		Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{100}$ ths, or as measured).....			
Length of engine room (if measured).....		Feet.	Tenths.
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for Space for propelling power in steamers) (a) }			

(a) *Omit this part if she has no steam power.*I, the undersigned A. B., of
declare as follows :

in the County of

I declare

I declare that the person appearing by the register book to be the mortgagee of shares in the ship above described* [died at in the County of _____ having first duly made his Will dated the _____ day of _____ whereby he appointed me Executor, and I proved his said Will on the _____ day of _____ in the Court of _____] or [died at in the County of _____ on the _____ day of _____ intestate, and that Letters of Administration of his estate and effects were on the _____ day of _____ duly granted to me by the Court of _____].

* *Alter according to circumstances.*

We declare that C. D., the person appearing on the register book to be the mortgagee of shares in the ship above described* [was on the _____ day of _____ duly adjudged a bankrupt] or [was duly declared insolvent], and that we were on the _____ day of _____ appointed Assignees of the said C. D., and we are by Law entitled to be registered as mortgagees of the said shares of the said ship in place of the said C. D.

I declare that on the _____ day of _____ I intermarried with and am now the husband of C. D., the person appearing on the register book to be the mortgagee of shares in the said ship, and I declare that on such marriage the interest of the said C. D. became by law vested in me, and that I am entitled to be registered as mortgagee of the said shares in place of the said C. D.

And I make this solemn declaration conscientiously believing the same to be true.

(Signed) _____

Made and subscribed by the above-named A. B.,
in the presence of me

(Signed) _____ Registrar or Justice of the Peace.

FORM M. (See Section 79.)

CERTIFICATE OF MORTGAGE.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square or other description.	Build	Carvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging		Head	Kind of.
Stern		Framework...	Wood or other material.
Measurements.			Feet. Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.			No. of Tons.
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any; viz....			
Space or spaces between decks.....			
Poop.....			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
- Total			
(a) Additional Particulars for Steamers.			Tons.
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{150}$ ths, or as measured).....			
Length of engine room (if measured).....			Feet. Tenths.
Engines			Number of Engines.
Combined power (estimated horse-power).....			No. of Horses-power.
Register tonnage, (after making deduction for) Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

ACCOUNT OF TITLE OF SUBSCRIBING OWNERS.		
Names of the several subscribing owners.	Number of sixty-fourth shares held by each of the subscribing owners.	Account of Mortgages or Certificates of Mortgage or sale granted in respect of shares of subscribing owners.
(Name and Description of Owner.)		

(1.) We, the above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above account of title, (*but subject to the several mortgages above mentioned,*) hereby appoint *A. B.* of _____ and *C. D.* of _____ and each of them, our attornies and attorney jointly or severally in our names or on our behalf to mortgage our shares in the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

Alter accordingly if there is only one appointor or one attorney.

(2.) We declare that the amount of money to be raised by mortgage under this power shall not exceed £ _____ and that the rate of interest at which the same is raised shall not exceed £ _____ for every £100 by the year.

(3.) We declare that the power of mortgaging hereby given may be exercised at _____

(4.) We declare that the above power shall not be exercised after the expiration of _____ months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of _____

(L.S.)
(L.S.)

E.F. of
G.H. of
&c.

I, *M. N.*, Registrar of _____ hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify, that the said owners have executed the certificate in manner above appearing.

(Signed) _____ Registrar.

N.B.—Mortgages created under this power must be indorsed on the Certificate in the following form, or as near thereto as circumstances permit:—

The _____ day of _____

The within mentioned shares in the ship _____ were this _____ day mortgaged to *X. Y.* of _____, to secure *£ _____ and interest.

Signed _____, Registrar or Consular Officer.

* If the mortgage is to cover advances, insert "a sum not exceeding £ _____," or "general balance of account," as case may be,

FORM N. (See Section 79.)

CERTIFICATE OF SALE.

No. _____		Date of Registry. _____	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			By steam or sails, and if by steam, whether by paddles or screw.
Number of Decks.	Nature of, and whether standing or running Bowsprit. Round, square, or other description.	Build	Carvel or Clincher.
Number of Masts.		Gallery	Description of.
Rigging		Head	Kind of.
Stern		Framework ...	Wood or other material.
Measurements.		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost.....			
Main breadth to outside of plank.....			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.		No. of Tons.	
Tonnage under tonnage deck.....			
Closed-in spaces above the tonnage deck, if any, viz....			
Space or spaces between decks			
Poop			
Roundhouse.....			
Other inclosed spaces, if any, naming them.....			
Total.....			
(a) Additional Particulars for Steamers.		Tons.	
Deduction for space required for propelling power (say whether $\frac{A}{100}$ ths or $\frac{B}{100}$ ths, or as measured).....			
Length of engine room (if measured)		Feet. Tenths.	
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }			

N. B. All the owners of the ship must be parties to this document.

(a) Omit this part if she has no steam power.

ACCOUNT OF TITLE TO THE ABOVE-MENTIONED SHIP.		
Names of the owners of the ship above-mentioned.	Number of sixty-fourth shares held by each owner.	Account of Mortgages, or Certificates of Mortgage, or Sale granted in respect of ship.
(Name.)		

After accordingly if only one appointor or one attorney.

(1.) We, the several above-mentioned persons, whose names are hereunto subscribed, being owners of the above ship in the proportions set opposite our respective names in the above-mentioned Account of Title, (*but subject to the several mortgages above-mentioned,*) hereby appoint *A. B.* of _____, and *C. D.* of _____, and each of them, our attorneys and attorney jointly or severally in our names and on our behalf to sell the above ship, and to execute and do all such deeds, matters, and things as may be necessary for carrying into effect the power hereby given.

(2.) We declare that the ship shall not be sold for a less sum than £

(3.) We declare that the ship may be sold at

(4.) We declare that the above power shall not be exercised after the expiration of _____ months from the date hereof.

In witness whereof, we have hereunto subscribed our names and affixed our seals, this _____ day of _____

(L.S.)

E.F. of

(L.S.)

G.H. of
&c.

I, *M. N.*, Registrar of _____, hereby certify, that the above-written particulars relating to the ship _____, and to the title of the several above-mentioned owners, are correct; and I further certify that the said owners have executed this certificate in manner above appearing.

(Signed) _____ Registrar.

FORM O. (See Section 88.)

FORM OF REVOCATION.

No. _____		Date of Registry.	
Name of Ship.	British or Foreign Built.	Port of Registry.	How propelled.
			<i>By steam or sails, and if by steam, whether by paddles or screw.</i>
Number of Decks.	<i>Nature of, and whether standing or running Bowsprit. Round, square or other description.</i>	Build	<i>Carvel or Clincher.</i>
Number of Masts.		Gallery	<i>Description of.</i>
Rigging		Head	<i>Kind of.</i>
Stern		Framework ...	<i>Wood or other material.</i>
Measurements.		Feet.	Tenths.
Length from the forepart of stem under the bowsprit to the aftside of the head of the sternpost			
Main breadth to outside of plank			
Depth in hold from tonnage deck to ceiling at midships.			
Tonnage.		No. of Tons.	
Tonnage under tonnage deck			
Closed-in spaces above the tonnage deck, if any; viz.			
Space or spaces between decks			
Poop			
Roundhouse			
Other inclosed spaces, if any, naming them			
Total			
(a) Additional Particulars for Steamers.		Tons.	
Deduction for space required for propelling power (say whether $\frac{1}{100}$ ths or $\frac{1}{100}$ ths, or as measured)			
Length of engine room (if measured)		Feet. Tenths.	
Engines		Number of Engines.	
Combined power (estimated horse-power)		No. of Horses-power.	
Register tonnage, (after making deduction for } Space for propelling power in steamers) (a) }			

(a) Omit this part if she has no steam power.

(a) *Alter according to circumstances the words printed in italics.*

We revoke the power of mortgaging (or selling) the said ship given by us to (b) by a certificate of mortgage (or sale) dated the day of

(b) *Insert names of attorneys.*

In witness whereof, we have hereunto subscribed our names and affixed our seals, this

(L. S.)
(L. S.)

E. F. of
G. H. of
&c.

I, M. N., registrar of , hereby certify, that the said owners have executed this power of revocation in manner above appearing.
(Signed) _____ Registrar.

TABLE P. (See Section 125.)

Fees to be charged for Matters transacted at Shipping Offices.

1. Engagement of Crews.				3. Discharge of Crews.			
		£	s. d.			£	s. d.
In Ships under	60 Tons	0	4 0	In Ships under	60 Tons	0	4 0
60 to 100 "		0	7 0	60 to 100 "		0	7 0
100 to 200 "		0	15 0	100 to 200 "		0	15 0
200 to 300 "		1	0 0	200 to 300 "		1	0 0
300 to 400 "		1	5 0	300 to 400 "		1	5 0
400 to 500 "		1	10 0	400 to 500 "		1	10 0
500 to 600 "		1	15 0	500 to 600 "		1	15 0
600 to 700 "		2	0 0	600 to 700 "		2	0 0
700 to 800 "		2	5 0	700 to 800 "		2	5 0
800 to 900 "		2	10 0	800 to 900 "		2	10 0
900 to 1,000 "		2	15 0	900 to 1,000 "		2	15 0
Above 1,000 "		3	0 0	Above 1,000 "		3	0 0
And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.				And so on for ships of larger tonnage, adding for every 100 tons above 1,000, five shillings.			
2. Engagement of seamen separately. Two shillings for each.				4. Discharge of seamen separately. Two shillings for each.			

TABLE Q. (See Section 126.)

Sums to be deducted from Wages by way of partial Repayment of Fees in Table P.

1. In respect of Engagements and Discharges of Crews, upon each Engagement and each Discharge.			2. In respect of Engagements and Discharges of Seamen separately, upon each Engagement and each Discharge.		
From wages of any mate,	s.	d.	One shilling.		
purser, engineer,					
surgeon, carpenter, or steward	1	6			
" all others except apprentices - -	1	0			

TABLE R. (See Section 133.)

Fees to be charged on Examinations.

	£	s.	d.
For a Certificate as Master.....	2	0	0
For a Certificate as Mate.....	1	0	0

TABLE S. (See Section 292.)

Number and Dimensions of Boats with which Seagoing Ships are provided.

REGISTERED TONNAGE.	COLUMN 1. To be carried by Sailing Ships and Steam Ships.										COLUMN 2. To be carried by Sailing Ships and by Steam Ships, when they do not carry the boats in col. 3.										COLUMN 3. To be carried by Steam Ships which do not carry the boat in column 2.										TOTAL NUMBER OF BOATS.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																												
	Boats.					Boats.					Launches.					Boats.					Life Boats.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																						
	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.	Number.	Length.	Breadth.	Depth.																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																			
Sailing Ships.	Steam Ships.	Tons.	Tons.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft.	ft

Note.—In Sailing Ships carrying the number of boats above specified, and Steam Ships carrying the larger of the two numbers above specified, the boats are to be considered sufficient, if their aggregate cubic contents are equal to aggregate cubic contents of the boat specified.

In Steam Ships carrying the smaller of the two numbers above specified, one of the boats must be a Launch of the capacity specified in Col. 2.

In Sailing Ships of 200 tons burden and under, not carrying passengers a Dingy may be substituted for the boat in Col. 1.

In Sailing Ships of 150 tons burden and under, not carrying passengers, a substantial boat of capacity sufficient to carry the crew may be substituted for those above specified.

In all Steam Ships, two paddlebox boats may be substituted for any two of the boats in Col. 3.

(TABLE T is a table of the fees to be charged for the survey of passenger steamers in the United Kingdom under Section 314.)

(TABLE U is a table of the rates of pilotage to be demanded and received by qualified pilots in the United Kingdom under Section 333.)

(TABLE V is a table of the fees and remuneration of receivers of wreck in the United Kingdom under Section 455.)

(TABLE W gives the form of the salvage bond required by Section 486.)

18 & 19 VICT., c. 91--1855.

An Act to facilitate the Erection and Maintenance of Colonial Lighthouses, and otherwise to amend the Merchant Shipping Act, 1854.

WHEREAS it is expedient to make provision for facilitating the erection and maintenance of lighthouses in the *British Possessions* abroad, and otherwise to amend the Merchant Shipping Act, 1854: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1855," and shall be taken to be part of the Merchant Shipping Act, 1854, and shall be construed accordingly.

Short Title of Act.

17 & 18 Vict., c. 104.

(Secs. 2-8 inclusive relate to the erection and maintenance of lighthouses on or near the coasts of British Possessions, but do not apply to inland waters. See Dom. Act, 31 Vict, c. 59.)

9. Any person who, in any declaration made in the presence of or produced to any registrar of shipping, in pursuance of the second part of the Merchant Shipping Act, 1854, or in any documents or other evidence produced to such registrar, wilfully makes, or assists in making or procures to be made, any false statement concerning the title to or the ownership of or the interests existing in any ship, or any share or shares in any ship, or who utters, produces, or makes use of any declaration or document containing any such false statement, knowing the same to be false, shall be guilty of a misdemeanor.

Registry of Ships.

PART II. of Merchant Shipping Act, 1854.

Penalty on false Declarations under Part II. of Merchant Shipping Act.

17 & 18 Vict., c. 104, s. 103.

10. Shares in ships registered under the said Merchant Shipping Act, 1854, shall be deemed to be included in the word "stock," as defined by the Trustee Act, 1850, and the provisions of such last-mentioned Act shall be applicable to such shares accordingly.

Shares in Shipping within the Trustee Act, 1850.

18 & 14 Vict., c. 60.

11. In any case in which any bill of sale, mortgage, or other instrument for the disposal or transfer of any ship or any share or shares therein or of any interest therein is made in any form or contains any particulars other than the form and

Forms of Instruments.

17 & 18 Vict., c. 104, s. 98.

and particulars prescribed and approved for the purpose by or in pursuance of the Merchant Shipping Act, 1854, no registrar shall be required to record the same without the express direction of the commissioners of Her Majesty's customs.

Delivery of
Certificate
upon Transfer
of Registry.
17 & 18 Vict.,
c. 104, s. 90.

12. Upon the transfer of the registry of a ship from one port to another, the certificate of registry required by the ninetieth section of the Merchant Shipping Act, 1854, to be delivered up for that purpose, may be delivered up to the registrar of either of such ports.

Exemption of
certain ships
from having
name painted
on stern.
17 & 18 Vict.,
c. 104, s. 94.

13. The commissioners of customs may, with the consent of the board of trade, exempt any pleasure yacht from the provision contained in the thirty-fourth section of the Merchant Shipping Act, 1854, which requires the name of every ship and the port to which she belongs to be painted on her stern.

Ships mea-
sured under
Rule II. may
be measured
under Rule I.
17 and 18 Vict.,
c. 104, ss. 21
and 22.

14. The owner of any ship which is measured under rule II. contained in the twenty-second section of the Merchant Shipping Act, 1854, may at any subsequent period apply to the commissioners of customs to have the said ship remeasured under rule I. contained in the twenty-first section of the same Act, and the said commissioners may thereupon, and upon payment of such fee not exceeding seven shillings and sixpence for each transverse section as they may authorize, direct the said ship to be remeasured accordingly, and the number denoting the register tonnage shall be altered accordingly.

(See *Imp. Act, 35 & 36 Vict., c. 73, s. 3, post.*)

General Regis-
ter Books in
London.
17 & 18 Vict.,
c. 104, s. 107.

15. The copy or transcript of the register of any *British* ship which is kept by the chief registrar of shipping at the custom house in *London*, or by the registrar general of seamen, under the direction of Her Majesty's commissioners of customs or of the board of trade, shall have the same effect to all intents and purposes as the original register of which the same is a copy or transcript.

*Masters and
Seamen.*

PART III of
Merchant
Shipping Act,
1854.

Extension of
Provisions
concerning the
relief of desti-
tute seamen.

17 & 18 Vict.,
c. 104, ss. 211,
212 and 213.

16. The board of trade may issue instructions concerning the relief to be administered to distressed seamen and apprentices, in pursuance of the two hundred and eleventh and two hundred and twelfth sections of the Merchant Shipping Act, 1854, and may by such instructions determine in what cases and under what circumstances and conditions such relief is to be administered; and all powers of recovering expenses incurred with respect to distressed seamen and apprentices, which by the two hundred and thirteenth section of the said Act are given to the board of trade, shall extend to all expenses incurred by any foreign government for the purposes

purposes aforesaid, and repaid to such government by Her Majesty's Government, and shall likewise extend to any expenses incurred by the conveying home such seamen or apprentices in foreign as well as *British* ships; and all provisions concerning the relief of distressed seamen and apprentices, being subjects of Her Majesty, which are contained in the said sections of the said Act, and in this section shall extend to such seamen and apprentices, not being subjects of Her Majesty, as are reduced to distress in foreign parts by reason of their having been shipwrecked, discharged, or left behind from any *British* ship; subject nevertheless to such modifications and directions concerning the cases in which relief is to be given to such foreigners, and the country to which they are to be sent, as the board of trade may, under the circumstances, think fit to make and issue.

(See *Imp. Act, 25 & 26 Vict, c. 63, s. 22, post.*)

17. The enactment of the Merchant Shipping Act, 1854, relating to Savings Banks, shall apply to all seamen, and to their wives and families, whether such seamen belong to the royal navy or to the merchant service, or to any other sea service.

Enactment concerning Savings Banks extended to seamen in the Navy.
17 & 18 Vict., c. 104, s. 180.

18. Any naval court summoned, under the provisions of the Merchant Shipping Act, 1854, to hear any complaint touching the conduct of the master or any of the crew of any ship, shall, in addition to the powers given to it by the said Act, have power to try the said master or any of the said crew for any offences against the Merchant Shipping Act, 1854, in respect of which two justices would, if the case were tried in the United Kingdom, have power to convict summarily, and by order duly made, to inflict the same punishments for such offences which two justices might in the case aforesaid inflict upon summary conviction; provided, that in cases where an offender is sentenced to imprisonment, the sentence shall be confirmed in writing by the senior naval or consular officer present at the place where the court is held, and the place of imprisonment, whether on land or on board ship, shall be approved by him as a proper place for the purpose, and copies of all sentences made by any naval court summoned to hear any such complaint as aforesaid, shall be sent to the commander-in-chief or senior naval officer of the station.

Additional Powers of Naval Courts.
17 & 18 Vict., c. 104, ss. 260 to 266.

(Secs. 19 & 20 amended the provisions of Part VIII. of the principal Act relating to wreck and salvage on or near the coasts of the United Kingdom. See *Dom. Act relating to wreck and salvage, 36 Vict., c. 55.*)

21. If any person, being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas or in any foreign port or harbour, or if any

Legal Procedure. —
PART X. of Merchant Shipping Act, 1854.

Jurisdiction in
case of of-
fences on
board ship.

13 & 13 Vict.,
c. 96

any person, not being a *British* subject, charged with having committed any crime or offence on board any *British* ship on the high seas, is found within the jurisdiction of any court of justice in Her Majesty's Dominions which would have had cognizance of such crime or offence if committed within the limits of its ordinary jurisdiction, such court shall have jurisdiction to hear and try the case as if such crime or offence had been committed within such limits; provided, that nothing contained in this section shall be construed to alter or interfere with the Act of the thirteenth year of Her present Majesty, chapter ninety-six.

(Sec. 22 makes provision for the relief of destitute Lascars and other natives of the East Indies.)

(Sec. 23 provides that contracts may be made with natives in India, under certain conditions, binding them to go to the United Kingdom, and then to serve in other ships back to India or elsewhere.)

Saving of for-
mer enact-
ments.
4 Geo. 4, c. 80,
ss. 25 to 34.
17 & 18 Vict.,
c. 120, s. 16.

24. Nothing herein contained shall be deemed to repeal or affect any provisions contained in the twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, or thirty-fourth sections of the Act of the fourth year of King *George* the Fourth, chapter eighty, or in the sixteenth section of the Act of the eighteenth year of Her present Majesty, chapter one hundred and twenty.

25 & 26 VICT. c. 63—1862.

An Act to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853."

17 & 18 Vict.,
c. 104.
18 & 19 Vict.,
c. 91.
16 & 17 Vict.,
c. 107.

WHEREAS it is expedient further to amend "The Merchant Shipping Act, 1854," "The Merchant Shipping Act Amendment Act, 1855," and "The Customs Consolidation Act, 1853:" Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short Title.

1. This Act may be cited as "The Merchant Shipping Act Amendment Act, 1862," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

2. The enactments described in table (A) in the schedule to this Act shall be repealed as therein mentioned, except as to any liabilities incurred before such repeal.

Enactments in Table (A.) repealed.

Registry and Measurement of Tonnage (Part II. of Merchant Shipping Act, 1854.)

3. It is hereby declared that the expression "beneficial interest," whenever used in the second part of the Principal Act, includes interests arising under contract and other equitable interests; and the intention of the said Act is, that, without prejudice to the provisions contained in the said Act for preventing notice of trusts from being entered in the register book or received by the registrar, and without prejudice to the powers of disposition and of giving receipts conferred by the said Act on registered owners and mortgagees, and without prejudice to the provisions contained in the said Act relating to the exclusion of unqualified persons from the ownership of *British* ships, equities may be enforced against owners and mortgagees of ships in respect of their interest therein, in the same manner as equities may be enforced against them in respect of any other personal property.

Equities not excluded by Merchant Shipping Act.

4. Any body corporate or persons having power to levy tonnage rates on ships may, if they think fit, with the consent of the board of trade, levy such tonnage rates upon the registered tonnage of the ships as determined by the rules for the measurement of tonnage for the time being in force under the Principal Act, notwithstanding that the local Act or Acts under which such rates are levied provides for levying the same upon some different system of tonnage measurement.

Tonnage rates under Local Acts may be levied on the registered tonnage.

Certificates for Engineers (Part III. of Merchant Shipping Act, 1854.)

(See *Dom. Act*, 31 Vict, c. 65, s. s. 25-29.)

5. On and after the first day of *June*, one thousand eight hundred and sixty-three, every steam ship which is required by the Principal Act to have a master possessing a certificate from the board of trade shall also have an engineer or engineers possessing a certificate or certificates from the board of trade as follows; that is to say,

Steam ships to carry Certificated Engineers.

- (1.) Engineers' certificates shall be of two grades, viz., "first-class engineers' certificates," and "second-class engineers' certificates":
- (2.) Every foreign-going steam ship of one hundred nominal horse power or upwards shall have as its first and second engineers two certificated engineers, the first possessing

a "first-class engineer's certificate," and the second possessing a "second-class engineer's certificate," or a certificate of the higher grade :

- (3.) Every foreign-going steam ship of less than one hundred nominal horse power shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade :
- (4.) Every sea-going home trade passenger steam ship shall have as its only or first engineer an engineer possessing a "second-class engineer's certificate," or a certificate of the higher grade :
- (5.) Every person who, having been engaged to serve in any of the above capacities in any such steam ship as aforesaid, goes to sea in that capacity without being at the time entitled to and possessed of such certificate as is required by this section, and every person who employs any person in any of the above capacities in such ship without ascertaining that he is at the time entitled to and possessed of such certificate as is required by this section, shall for each such offence incur a penalty not exceeding fifty pounds.

**Examinations
for Engineers'
Certificates of
Competency.**

6. The board of trade shall from time to time cause examinations to be held of persons who may be desirous of obtaining certificates of competency as engineers : For the purpose of such examinations the board of trade shall from time to time appoint and remove examiners, and award the remuneration to be paid to them ; lay down rules as to the qualification of applicants, and as to the times and places of examination ; and generally do all such acts as it thinks expedient in order to carry into effect the examination of such engineers as aforesaid.

**Fees to be paid
by applicants
for examination.**

7. All applicants for examination shall pay such fees, not exceeding the sums specified in the table marked (B.) in the schedule hereto, as the board of trade directs ; and such fees shall be paid to such persons as the said board appoints for that purpose, and shall be carried to the account of the mercantile marine fund.

**Certificates of
Competency to
be granted to
those who
pass.**

8. The board of trade shall deliver to every applicant who is duly reported to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, and ability, a certificate of competency, as first-class engineer or as second-class engineer, as the case may be.

**Engineers'
Certificates of
Service to be
delivered on
proof of cer-
tain service.**

9. Certificates of service for engineers, differing in form from certificates of competency, shall be granted as follows ; that is to say,

(1.)

- (1.) Every person who before the first day of *April*, one thousand eight hundred and sixty-two, has served as first engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or who has attained or attains the rank of engineer in the service of Her Majesty or of the *East India* Company, shall be entitled to a "first-class engineer's" certificate of service :
- (2.) Every person who before the first day of *April*, one thousand eight hundred and sixty-two, has served as second engineer in any foreign-going steam ship of one hundred nominal horse power or upwards, or as first or only engineer in any other steam ship, or who has attained or attains the rank of first-class assistant engineer in the service of Her Majesty, shall be entitled to a "second-class engineer's certificate" of service :

Each of such certificates of service shall contain particulars of the name, place, and time of birth, and the length and nature of the previous service of the person to whom the same is delivered ; and the board of trade shall deliver such certificates of service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

10. The provisions of the Principal Act, with respect to the certificates of competency or service of masters and mates, contained in the 138th, 139th, 140th, 161st, and 162d sections of the said Act, shall apply to certificates of competency or service granted under this Act in the same manner as if certificates of competency and service to be granted to engineers under this Act were specially mentioned and included in the said sections.

Certain Provisions of Merchant Shipping Act to apply to Engineers' Certificates.

11. The power by the 241st section of the Principal Act given to the board of trade or to any local marine board of instituting investigations into the conduct of any master or mate whom it has reason to believe to be from incompetency or misconduct unfit to discharge his duties, shall extend to any certificated engineer whom the board of trade or any local marine board has reason to believe to be from incompetency or misconduct unfit to discharge his duties, in the same manner as if in the said section the words "certificated engineer" had been inserted after "master" wherever "master" occurs in such section.

Power of Board of Trade and Local Marine Board to investigate conduct of Certificated Engineers.

12. The declaration required to be given by the engineer surveyor under section 309 of the Principal Act shall, in the case of a ship by this Act required to have a certificated engineer, contain, in addition to the statements in the said section

Declaration of Engineer Surveyor to contain statement concerning Engineers' Certificate.

section mentioned, a statement that the certificate or certificates of the engineer or engineers of such ship is or are such and in such condition as is required by this Act.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

Third Part of Act to apply to fishing boats, lighthouse vessels, and pleasure yachts, with certain exceptions.

13. The following vessels ; that is to say,

- (1.) Registered sea-going ships exclusively employed in fishing on the coasts of the United Kingdom ;
- (2.) Sea-going ships belonging to any of the three general lighthouse boards ;
- (3.) Sea-going ships being pleasure yachts ;

Shall be subject to the whole of the third part of the principal Act : except,—Sections 136, 143, 145, 147, 149, 150, 151, 152, 153, 154, 155, 157, 158, 161, 162, 166, 170, 171, 231, 256, 279, 280, 281, 282, 283, 284, 285, 286 and 287.

Local Marine Board may determine number of quorum.

14. Whereas doubts have been entertained whether local marine boards have the power of determining a quorum : It is hereby declared, that the power by the 119th section of the Principal Act given to every local marine board of regulating the mode in which its meetings are to be held and its business conducted includes the power of determining a quorum ; nevertheless, after the passing of this Act such quorum shall never consist of less than three members.

Titles of Shipping Masters.

15. The offices termed shipping offices in the Principal Act shall be termed mercantile marine offices, and the officers termed shipping masters and deputy shipping masters in the Principal Act shall be termed superintendents and deputy superintendents of such offices ; but nothing in this section contained shall invalidate or affect any Act which may be done at any such office under the title of a shipping office, or any act which may be done by, with, or to any of the said officers under the title of shipping master or deputy shipping master.

Punishment for embezzlement in shipping offices.

16. Any person appointed to any office or service by or under any local marine board shall be deemed to be a clerk or servant within the meaning of the sixty-eighth section of the Act of the twenty-fifth year of the reign of Her present Majesty, chapter ninety-six :

If any such person fraudulently applies or disposes of any chattel, money, or valuable security received by him whilst employed in such office or service for or on account of any such

such local marine board or for or on account of any other public board or department, to his own use or any use or purpose other than that for which the same was paid, entrusted to, or received by him, or fraudulently withholds, retains, or keeps back the same or any part thereof contrary to any lawful directions or instructions which he is required to obey in relation to such office or service, he shall be deemed guilty of embezzlement within the meaning of the said section :

Any such person shall, on conviction of such offence as aforesaid, be liable to the same pains and penalties as are thereby imposed upon any clerk or servant for embezzlement :

In any indictment against such person for such offence it shall be sufficient to charge any such chattel, money, or valuable security as the property either of the board by which he was appointed, or of the board or department for or on account of which he may have received the same ; and no greater particularity in the description of the property shall be required in such indictment in order to sustain the same, or in proof of the offence alleged, than is required in respect of an indictment or the subject matter thereof by the seventy-first section of the said last-mentioned Act.

17. Whereas it is expedient to make provision in certain cases for holding examinations of applicants for certificates of competency at places where there are no local marine boards : Be it enacted, that the board of trade, if satisfied that serious inconvenience exists at any port in consequence of the distance which applicants for certificates have to travel in order to be examined, may, with the concurrence of any local marine board, send the examiner or examiners of that local marine board to the port where such inconvenience exists ; and thereupon the said examiner or examiners shall proceed to such port, and shall there examine the applicants in the presence of such person or persons (if any) as the board of trade may appoint for the purpose ; and such examinations shall be conducted in the same manner and shall have the same effect as other examinations under the said Act.

Examinations
of masters and
mates at ports
where there
are no Local
Marine
Boards.

18. It is hereby declared that the 182d section of the Principal Act does not apply to the case of any stipulation made by the seamen belonging to any ship, which according to the terms of the agreement is to be employed on salvage service, with respect to the remuneration to be paid to them for salvage services to be rendered by such ship to any other ship or ships.

Construction
of Sect. 182 of
Principal Act.
Stipulations
concerning
salvage.

19. The payment of seamen's wages required by the 209th section of the Principal Act shall, whenever it is practicable so to do, be made in money and not by bill ; and in cases where

Payment of
wages to sea-
men abroad
under Section
209 of Principal
Act.

where payment is made by bill drawn by the master, the owner of the ship shall be liable to pay the amount for which the same is drawn to the holder or indorsee thereof; and it shall not be necessary in any proceeding against the owner upon such bill to prove that the master had authority to draw the same; and any bill purporting to be drawn in pursuance of the said section, and to be indorsed as therein required, if produced out of the custody of the board of trade or of the registrar general of seamen, or of any superintendent of any mercantile marine office, shall be received in evidence; and any indorsement on any such bill purporting to be made in pursuance of the said section, and to be signed by one of the functionaries therein mentioned, shall also be received in evidence, and shall be deemed to be *prima facie* evidence of the facts stated in such indorsement.

Wages and
effects of de-
ceased sea-
men.

20. The 197th section of the principal Act shall extend to seamen or apprentices who within the six months immediately preceding their death have belonged to a *British* ship; and such section shall be construed as if there were inserted in the first line thereof after the words "such seaman or apprentice as last aforesaid" the words "or if any seaman or apprentice who has within the six months immediately preceding his death belonged to a *British* ship."

Recovery of
wages, &c., of
seamen lost
with their
ship.

21. The wages of seamen or apprentices who are lost with the ship to which they belong shall be dealt with as follows; (that is to say):

- (1.) The board of trade may recover the same from the owner of the ship in the same manner in which seamen's wages are recoverable:
- (2.) In any proceedings for the recovery of such wages, if it is shown by some official return produced out of the custody of the registrar general of seamen or by other evidence that the ship has twelve months or upwards before the institution of the proceeding left a port of departure, and if it is not shown that she has been heard of within twelve months after such departure, she shall be deemed to have been lost with all hands on board, either immediately after the time she was last heard of or at such later time as the court hearing the case may think probable:
- (3.) The production out of the custody of the registrar general of seamen or of the board of trade of any duplicate agreement or list of the crew made out at the time of the last departure of the ship from the United Kingdom, or of a certificate purporting to be a certificate from a consular or other public officer at any port abroad, stating that

that certain seamen or apprentices were shipped in the ship from the said port, shall, in the absence of proof to the contrary, be sufficient proof that the seamen or apprentices therein named were on board at the time of the loss :

- (4.) The board of trade shall deal with such wages in the manner in which they deal with the wages of other deceased seamen and apprentices under the Principal Act.

22. Whereas under the 211th and 212th sections of the Principal Act, and the 16th section of "The Merchant Shipping Act Amendment Act, 1855," provision is made for relieving and sending home seamen found in distress abroad :

Relief of distressed seamen to be regulated by Board of Trade.

And whereas doubts are entertained whether power exists under the said sections of making regulations and imposing conditions which are necessary for the prevention of desertion and misconduct and the undue expenditure of public money :

Be it enacted, and it is hereby declared, That the claims of seamen to be relieved or sent home in pursuance of the said sections or any of them shall be subject to such regulations and dependent on such conditions as the board of trade may from time to time make or impose ; and no seaman shall have any right to demand to be relieved or sent home except in the cases and to the extent provided for by such regulations and conditions.

23. The following rules shall be observed with respect to the cancellation and suspension of certificates, that is to say :

Power of cancelling certificate to rest with the court which hears the case.

- (1.) The power of cancelling or suspending the certificate of a master or mate by the 242d section of the Principal Act conferred on the board of trade shall (except in the case provided for by the fourth paragraph of the said section) vest in and be exercised by the local marine board, magistrates, naval court, admiralty court, or other court or tribunal by which the case is investigated, or tried, and shall not in future vest in or be exercised by the board of trade :
- (2.) Such power shall extend to cancelling or suspending the certificates of engineers in the same manner as if "certificated engineer" or "certificated engineers" were inserted throughout such section after "master" or "masters" :
- (3.) Every such board, court, or tribunal shall, at the conclusion of the case, or as soon afterwards as possible, state

state in open court the decision to which they may have come with respect to cancelling or suspending certificates, and shall in all cases send a full report upon the case, with the evidence, to the board of trade, and shall also, if they determine to cancel or suspend any certificate, forward such certificate to the board of trade with their report :

- (4.) It shall be lawful for the board of trade, if they think the justice of the case requires it, to reissue and return any certificate which has been cancelled or suspended, or shorten the time for which it is suspended, or grant a new certificate of the same or any lower grade in place of any certificate which has been cancelled or suspended :
- (5.) The 434th and 437th sections of the Principal Act shall be read as if for the word "nautical" were substituted the words "nautical or engineering," and as if for the word "person" and "assessor" respectively were substituted the words "person or persons" and "assessor or assessors" respectively :
- (6.) No certificate shall be cancelled or suspended under this section unless a copy of the report or a statement of the case upon which the investigation is ordered has been furnished to the owner of the certificate before the commencement of the investigation, nor, in the case of investigations conducted by justices or a stipendiary magistrate, unless one assessor at least expresses his concurrence in the report.

Certificate to
be delivered
up.

24. Every master or mate or engineer whose certificate is or is to be suspended or cancelled in pursuance of this Act shall, upon demand of the board, court, or tribunal by which the case is investigated or tried, deliver his certificate to them, or, if it is not demanded by such board, court, or tribunal, shall, upon demand, deliver it to the board of trade, or as it directs, and in default shall for each offence incur a penalty not exceeding fifty pounds.

Safety (Part IV. of Merchant Shipping Act, 1864.)

(Secs. 25-34 prescribe rules to be observed for the prevention of collisions (as to carrying lights, fog-signals, &c.,) and provided what should be the consequence of a breach of such rules, but this subject as to navigable waters within the Dominion is governed by Dom. Act, 31 Vict., c. 58.)

Surveys of
steamers.

34. Notwithstanding anything in the 311th section of the Principal Act contained, it shall not be necessary for the surveys of passenger steamers to be made in the months of April and

and *October* ; but no declaration shall be given by any surveyor under the fourth part of the said Act for a period exceeding six months, and no certificate issued by the board of trade shall remain in force more than six months from the date thereof.

(See Dom. Acts relative to the inspection of steamboats.)

35. The following offenders, that is to say :

- (1.) Any person who, being drunken or disorderly, has been on that account refused admission into any duly surveyed passenger steamer by the owner or any person in his employ, and who, after having had the amount of his fare (if he has paid the same) returned or tendered to him, nevertheless persists in attempting to enter such steamer ; Penalties on drunken or disorderly passengers.
- (2.) Any person who, being drunken or disorderly on board any such steamer, is requested by the owner or any person in his employ to leave the same at any place in the United Kingdom at which he can conveniently so do, and who, having had the amount of his fare (if he has paid the same) returned or tendered to him, refuses to comply with such request ;
- (3.) Any person on board any such steamer who, after warning by the master or any other officer of the steamer, molests or continues to molest any passenger ; On persons molesting passengers.
- (4.) Any person who, after having been refused admission into any such steamer by the owner or any person in his employ on account of such steamer being full, and who, after having had the full amount of his fare (if he has paid the same), returned or tendered to him, nevertheless persists in attempting to enter the same ; Penalties on persons forcing way on board the ship when full.
- (5.) Any person, having got on board any such steamer, who, upon being requested on the like account by the owner or any person in his employ to leave such steamer before the same has quitted the place at which such person got on board, and who, upon having the full amount of his fare (if he has paid the same), returned or tendered to him, refuses to comply with such request ; And on persons refusing to quit the ship when full.
- (6.) Any person who travels or attempts to travel in any such steamer without having previously paid his fare. and with intent to avoid payment thereof : Penalties for avoiding payment of fares.
- (7.) Any person who, having paid his fare for a certain distance, knowingly and wilfully proceeds in any such steamer

steamer beyond such distance without previously paying the additional fare for the additional distance, and with intent to avoid payment thereof;

- (8.) Any person who knowingly and wilfully refuses or neglects, on arriving at the point to which he has paid his fare, to quit any such steamer; and
- (9.) Any person on board any such steamer who does not when required by the master or other officer of such steamer either pay his fare or exhibit such ticket or other receipt (if any) showing the payment of his fare as is usually given to persons travelling by and paying their fare for such steamer;

Shall for every such offence be liable to a penalty not exceeding forty shillings; but such liability shall not prejudice the recovery of any fare payable by him.

(As to offences of the nature of those mentioned in this and the following section on steamers registered in Canada see Dom. Act, 36 Vict., c. 57.)

Penalty for
injuring
steamer or
molesting
crew.

36. Any person on board any such steamer who wilfully does or causes to be done anything in such a manner as to obstruct or injure any part of the machinery or tackle of such steamer, or to obstruct, impede, or molest the crew or any of them in the navigation or management of such steamer, or otherwise in the execution of their duty upon or about such steamer, shall for every such offence be liable to a penalty not exceeding twenty pounds.

Manner of ap-
prehending
offenders.

37. It shall be lawful for the master or other officer of any duly surveyed passenger steamer, and for all persons called by him to his assistance, to detain any person who has committed any offence against any of the provisions of the two last preceding sections of this Act, and whose name and address are unknown to such officer, and to convey such offender with all convenient despatch before some justice without any warrant or other authority than this Act; and such justice shall have jurisdiction to try the case, and shall proceed with all convenient despatch to the hearing and determining of the complaint against such offender.

(Sec. 38 extended the 329th Section of the Principal Act to foreign ships when within the limits of the United Kingdom, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 35.)

Pilotage (Part V. of Merchant Shipping Act, 1854.)

(Secs. 39-42 inclusive amend and extend the provisions of Part V. of the Principal Act, but do not apply to this Province. See note to this part of the Principal Act, ante.)

Lighthouses

Lighthouses (Part VI. of Merchant Shipping Act, 1854.)

(Secs. 43-47 amend and extend the provisions of Part VI. of the Principal Act, but do not apply to this Province. See note to Part VI. of the Principal Act, ante.)

Wreck and Salvage (Part VIII. of Merchant Shipping Act, 1854.)

(Secs. 49-53 inclusive amend the provisions of Part VIII. of the Principal Act relating to procedure in salvage cases and to unclaimed wreck in the United Kingdom, and apply only to the United Kingdom and the adjacent Seas and Islands.)

Liability of Shipowners (Part IX. of Merchant Shipping Act, 1854.)

54. The owners of any ship, whether *British* or foreign, shall not, in cases where all or any of the following events occur without their actual fault or privity, that is to say :

Shipowners
liability
limited.

- (1.) Where any loss of life or personal injury is caused to any person being carried in such ship ;
- (2.) Where any damage or loss is caused to any goods, merchandise, or other things whatsoever on board any such ship ;
- (3.) Where any loss of life or personal injury is by reason of the improper navigation of such ship as aforesaid caused to any person carried in any other ship or boat ;
- (4.) Where any loss or damage is by reason of the improper navigation of such ship as aforesaid caused to any other ship or boat, or to any goods, merchandise, or other things whatsoever on board any other ship or boat ;

be answerable in damages in respect of loss of life or personal injury, either alone or together with loss or damage to ships, boats, goods, merchandise, or other things, to an aggregate amount exceeding fifteen pounds for each ton of their ship's tonnage ; nor in respect of loss or damage to ships, goods, merchandise, or other things, whether there be in addition loss of life or personal injury or not, to an aggregate amount exceeding eight pounds for each ton of the ship's tonnage ; such tonnage to be the registered tonnage in the case of sailing ships, and in the case of steam ships the gross tonnage without deduction on account of engine room :

In the case of any foreign ship which has been or can be measured according to *British* law, the tonnage as ascertained by such measurement shall, for the purposes of this section, be deemed to be the tonnage of such ship :

In

In the case of any foreign ship which has not been and cannot be measured under *British* law, the surveyor general of tonnage in the United Kingdom, and the chief measuring officer in any *British* Possession abroad, shall, on receiving from or by direction of the court hearing the case such evidence concerning the dimensions of the ship as may be found practicable to furnish, give a certificate under his hand, stating what would in his opinion have been the tonnage of such ship if she had been duly measured according to *British* law, and the tonnage so stated in such certificate shall, for the purposes of this section, be deemed to be the tonnage of such ship.

Limitation
of invalidity
of insurances.

55. Insurances effected against any or all of the events enumerated in the section last preceding, and occurring without such actual fault or privity as therein mentioned, shall not be invalid by reason of the nature of the risk.

Proof of pas-
sengers on
board lost
ship.

56. In any proceeding under the 506th section of the Principal Act or any Act amending the same against the owner of any ship or share therein in respect of loss of life, the master's list or the duplicate list of passengers delivered to the proper officer of customs under the 16th section of "The Passengers' Act, 1855," shall, in the absence of proof to the contrary, be sufficient proof that the persons in respect of whose death any such prosecution or proceeding is instituted were passengers on board such ships at the time of their deaths.

Arrangements concerning Lights, Sailing Rules, Salvage, and Measurement of Tonnage in the Case of Foreign Ships.

Foreign ships
in British
jurisdiction to
be subject to
regulations in
Table (C) in
Schedule.

57. Whenever foreign ships are within *British* jurisdiction, the regulations for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing collision as are for the time being in force under this Act, and all provisions of this Act relating to such regulations, or otherwise relating to collisions, shall apply to such foreign ships; and in any cases arising in any *British* court of justice concerning matters happening within *British* jurisdiction, foreign ships shall, so far as regards such regulations and provisions, be treated as if they were *British* ships.

(The rules for the prevention of collisions prescribed by Dom. Act, 31 Vict., c. 58, are extended by Section 10 of that Act to foreign ships when in Canadian waters.)

Regulations,
when adopted
by a foreign
country, may
be applied to
its ships on the
high seas.

58. Whenever it is made to appear to Her Majesty that the Government of any foreign country is willing that the regulations, for preventing collision contained in table (C.) in the schedule to this Act, or such other regulations for preventing

preventing collision as are for the time being in force under this Act, or any of the said regulations, or any provisions of this Act relating to collisions, should apply to the ships of such country when beyond the limits of *British* jurisdiction, Her Majesty may, by Order in Council, direct that such regulations, and all provisions of this Act which relate to such regulations, and all such other provisions as aforesaid, shall apply to the ships of the said foreign country, whether within *British* jurisdiction or not.

59. Whenever it is made to appear to Her Majesty that the government of any foreign country is willing that salvage shall be awarded by *British* courts for services rendered in saving life from any ship belonging to such country when such ship is beyond the limits of *British* jurisdiction, Her Majesty may, by Order in Council, direct that the provisions of the Principal Act and of this Act, with respect to salvage for services rendered in saving life from *British* ships, shall in all *British* courts be held to apply to services rendered in saving life from the ships of such foreign country, whether such services are rendered within *British* jurisdiction or not.

Provisions concerning salvage of life may, with the consent of any foreign country, be applied to its ships on the high seas.

60. Whenever it is made to appear to Her Majesty that the rules concerning the measurement of tonnage of merchant ships for the time being in force under the Principal Act have been adopted by the Government of any foreign country, and are in force in that country, it shall be lawful for Her Majesty by Order in Council to direct that the ships of such foreign country shall be deemed to be of the tonnage denoted in their certificates of registry or other national papers; and thereupon it shall no longer be necessary for such ships to be re-measured in any port or place in Her Majesty's Dominions, but such ships shall be deemed to be of the tonnage denoted in their certificates of registry or other papers, in the same manner, to the same extent, and for the same purposes in, to and for which the tonnage denoted in the certificates of registry of *British* ships is deemed to be the tonnage of such ships.

Ships of foreign countries adopting the rule for measurement of tonnage need not be re-measured in this country.

61 Whenever an Order in Council has been issued under this Act, applying any provision of this Act or any regulation made by or in pursuance of this Act to the ship of any foreign country, such ships shall in all cases arising in any *British* court be deemed to be subject to such provision or regulation, and shall for the purpose of such provision or regulation be treated as if they were *British* ships.

Effect of Order in Council.

62. In issuing any Order in Council under this Act Her Majesty may limit the time during which it is to remain in operation, and may make the same subject to such conditions and qualifications, if any, as may be deemed expedient, and thereupon the operation of the said Order shall be limited and modified accordingly,

Orders in Council may be limited as to time, and qualified.

Orders in Council may be revoked and altered.

63. Her Majesty may by Order in Council from time to time revoke or alter any Order previously made under this Act.

Orders in Council to be published in *London Gazette*.

64. Every Order in Council to be made under this Act shall be published in the *London Gazette* as soon as may be after the making thereof; and the production of a copy of the *London Gazette* containing such Order shall be received in evidence, and shall be proof that the Order therein published has been duly made and issued; and it shall not be necessary to plead such Order specially.

Legal Procedure.

20 & 21 Vict., c. 43, s. 3, not to apply to proceedings under Board of Trade or this Act, &c.

65. Nothing in the third section of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter forty-three, except so much thereof as provides for the payment of any fees that may be due to the clerk of the justices, shall be deemed to apply to extend to any proceedings under the direction of the board of trade, or under or by virtue of the provisions of the Principal Act or this Act, or any Act amending the same.

(The remaining sections of this Act [66-78] relate to this subject and apply to the United Kingdom only.)



The SCHEDULE referred to in this Act.

TABLE (A.) See Section 2.

Enactments to be repealed.

Reference to Act.	Title of Act.	Extent of Repeal.
8 & 9 Vict., c. 91.	An Act for the Warehousing of Goods.	Section 51 to be repealed immediately on the passing of this Act.
16 & 17 Vict., c. 107.	Customs Consolidation Act, 1853.	The last Proviso in Sections 74, and Sections 170, 171, and 172, to be repealed immediately on the passing of this Act.
17 & 18 Vict., c. 104.	Merchant Shipping Act, 1854.	Sections 295, 296, 297, 298, and 299, to be repealed from the date at which the Regulations contained in Table C. in this Schedule come into operation. Sections 300, 322, 323, 504, and 505, to be repealed immediately on the passing of this Act.
19 & 20 Vict., c. 75.	An Act for the further alteration and amendment of the laws and duties of Customs.	Section 8 to be repealed immediately on the passing of this Act.

TABLE (B.) See Section 6.

Fees to be charged on Examination of Engineers.

For a First-class Engineer's Certificate.....	£2	0	0
For a Second-class Engineer's Certificate...	1	0	0

TABLE (C.) See Section 25.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.

(These do not apply to Canadian waters. See note to Sections 25-33 of this Act.)

30 & 31 VICT., c. 124—1867.

An Act to amend the Merchant Shipping Act, 1854.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows :

Short Title.

1. This Act may be cited as "The Merchant Shipping Act, 1867," and shall be construed with and as part of "The Merchant Shipping Act, 1854," hereinafter termed the Principal Act.

**Commence-
ment of Act.**

2. This Act shall come into operation on the first day of *January*, one thousand eight hundred and sixty-eight, but shall not apply to any ship which belongs to the United Kingdom and is absent therefrom at the time when this Act comes into operation until such ship has returned to the United Kingdom.

**Sections 224,
227, and 231, of
17 & 18 Vict., c.
104, repealed.**

3. The two hundred and twenty-fourth, two hundred and twenty-seventh, and two hundred and thirty-first sections of the Principal Act are hereby repealed.

**Lime or
lemon juice
and other
anti-scorbutics
to be provided
and kept on
board certain
ships.**

4. The following rules shall be observed with respect to medicines, medical stores, and anti-scorbutics ; (that is to say,)

- (1.) The board of trade shall from time to time issue and cause to be published scales of medicines and medical stores suitable for different ships and voyages, and shall also prepare or sanction a book or books containing instructions for dispensing the same:
- (2.) The owners of every ship navigating between the United Kingdom and any place out of the same shall provide and cause to be kept on board such ship a supply of medicines and medical stores in accordance with the scale appropriate to the said ship, and also a copy of the said book or of one of the said books containing instructions :
- (3.) No lime or lemon juice shall be deemed fit and proper to be taken on board any such ship, for the use of the crew or passengers thereof, unless the same has been obtained from a bonded warehouse for and to be shipped as stores ;
and

and no lime or lemon juice shall be so obtained or delivered from any warehouse as aforesaid unless the same is shown, by a certificate under the hand of an inspector appointed by the board of trade, to be proper for use on board ship, such certificate to be given upon inspection of a sample after deposit of the said lime or lemon juice in the warehouse; nor unless the same contains fifteen *per centum* of proper and palatable proof spirits, to be approved by such inspector, or by the proper officer of customs, and to be added before or immediately after the inspection thereof; nor unless the same is packed in such bottles, at such time and in such manner, and is labelled in such manner as the Commissioners of Customs may direct; provided that when any such lime or lemon juice is deposited in any bonded warehouse, and has been approved as aforesaid by the said inspector, the said spirits, or so much of the said spirits as is necessary to make up fifteen *per centum*, may be added in such warehouse, without payment of any duty thereon; and when any spirit has been added to any lime or lemon juice, and the same has been labelled as aforesaid, it shall be deposited in the warehouse for delivery as ship's stores only, upon such terms and subject to such regulations of the Commissioners of Customs as are applicable to the delivery of ship's stores from the warehouse:

- (4.) The master or owner of every such foreign-going ship (except those bound to European ports or to ports in the Mediterranean Sea, and also except such ships or classes of ships bound to ports on the Eastern coast of America, North of the thirty-fifth degree of north latitude, and to any islands or places in the Atlantic Ocean, North of the same limit, as the board of trade may from time to time exempt from this enactment,) shall provide and cause to be kept on-board such ship a sufficient quantity of lime or lemon juice from the warehouse duly labelled as aforesaid, such labels to remain intact until twenty-four hours at least after such ship shall have left her port of departure on her foreign voyage, or a sufficient quantity of such other anti-scorbutics, if any, of such quality, and composed of such materials, and packed and kept in such manner, as Her Majesty by Order in Council may from time to time direct:
- (5.) The master of every such ship as last aforesaid shall serve or cause to be served out the lime or lemon juice with sugar (such sugar to be in addition to any sugar required by the articles) or other such anti-scorbutics as aforesaid to the crew so soon as they have been at sea for ten days, and during the remainder of the voyage, except during such time as they are in harbour and are there

there supplied with fresh provisions ; the lime or lemon juice and sugar to be served out daily at the rate of an ounce each per day to each member of the crew, and to be mixed with a due proportion of water before being served out, or the other anti-scorbutics, if any, at such times and in such quantities as Her Majesty by Order in Council may from time to time direct :

- (6.) If at any time when such lime or lemon juice or anti-scorbutics is or are so served out as aforesaid any seaman or apprentice refuses or neglects to take the same, such neglect or refusal shall be entered in the official log book in the manner provided by the two hundred and eighty-first section of the Principal Act, and shall be signed by the master and by the mate or some other of the crew, and also by the surgeon or medical practitioner on board, if any :

And if in any such ship as aforesaid such medicines, medical stores, book of instructions, lime or lemon juice, sugar, or anti-scorbutics as are hereinbefore required, are not provided, packed, and kept on board as hereinbefore required, the owner or master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding twenty pounds, unless he can prove that the non-compliance with the above provisions, or any of them, was not caused through any inattention, neglect, or wilful default on his part ; and if the lime or lemon juice and sugar or other anti-scorbutics are not served out in the case and manner hereinbefore directed, or if entry is not made in the official log in the case and manner hereinbefore required, the master shall be deemed to be in fault, and shall for each default incur a penalty not exceeding five pounds, unless he can prove that the non-compliance with the above provisions, or any of them, did not arise through any neglect, omission, or wilful default on his part ; and if in any case it is proved that some person other than the master or owner is in default in any case under this section, then such other person shall be liable to a penalty not exceeding twenty pounds.

Penalty for
selling, &c.,
medicines, &c.,
of bad quality.

5. Any person who manufactures, sells, or keeps or offers for sale any such medicines or medical stores as aforesaid which are of bad quality, shall for each such offence incur a penalty not exceeding twenty pounds.

Power to
Governors, &c.,
to make regu-
lations as to
supply of lime
or lemon juice,
&c.

6. In any *British Possession* out of the United Kingdom the Governor or officer administering the government for the time being shall, subject to the laws of such possession, have power to make regulations concerning the supply within such possession of lime or lemon juice and anti-scorbutics for the use of ships ; and any lime or lemon juice or anti-scorbutics

tics duly supplied in accordance with any such regulations shall be deemed to be fit and proper for the use of ships.

7. Whenever it is shown that any seaman or apprentice who is ill has, through the neglect of the master or owner, not been provided with proper food and water according to his agreement, or with such accommodation, medicines, medical stores, or anti-scorbutics as are required by the Principal Act, or by this Act, then, unless it can be shown that the illness has been produced by other causes, the owner or master shall be liable to pay all expenses properly and necessarily incurred by reason of such illness (not exceeding in the whole three months wages), either by such seaman himself, or by Her Majesty's Government, or any Officer of Her Majesty's Government, or by any parochial or other local authority on his behalf, and such expenses may be recovered in the same way as if they were wages duly earned: Provided that this enactment shall not operate so as to affect any further liability of any such owner or master for such neglect, or any remedy which any seaman already possesses.

Seamen's expenses in case of illness through neglect of owner or master to be paid by them.

8. Where a seaman is by reason of illness incapable of performing his duty, and it is proved that such illness has been caused by his own wilful act or default, he shall not be entitled to wages for the time during which he is by reason of such illness incapable of performing his duty.

Forfeiture of wages, &c., of seamen when illness is caused by his own default.

9. The following rules shall be observed with respect to accommodation on board *British* ships; (that is to say,)

Place appropriated to seamen to have a certain space for each man, and to be properly constructed and kept clear.

(1.) Every place in any ship occupied by seamen or apprentices, and appropriated to their use, shall have for every such seaman or apprentice a space of not less than seventy-two cubic feet, and of not less than twelve superficial feet, measured on the deck or floor of such place:

(2.) Every such place shall be such as to make the space aforesaid available for the proper accommodation of the men who are to occupy it, shall be securely constructed, properly lighted and ventilated, properly protected from weather and sea, and as far as practicable properly shut off and protected from effluvia which may be caused by cargo or bilge water:

(3.) No such place as aforesaid shall be deemed to be such as to authorize a deduction from registered tonnage, under the provisions hereinafter contained, unless there is or are in the ship one or more properly constructed privy or privies for the use of the crew; such privy or privies to be of such number and of such construction as may be approved by the surveyor hereinafter mentioned:

(4.)

- (4.) Every such place shall, whenever the ship is registered or re-registered, be inspected by one of the surveyors appointed by the board of trade under Part IV. of the Principal Act, who shall, if satisfied that the same is in all respects such as is required by this Act, give to the collector of customs a certificate to that effect, and thereupon such space shall be deducted from the register tonnage :
- (5.) No such deduction from tonnage as aforesaid shall be authorized unless there is permanently cut in a beam, and cut in or painted on or over the doorway or hatchway of every such place, the number of men which it is constructed to accommodate, with the words "certified to accommodate
seamen" :
- (6.) Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage :
- (7.) Upon any complaint concerning any such place as aforesaid, one of the surveyors appointed by the board of trade may inspect such place, and if he finds that any of the provisions of this Act with respect to the same are not complied with he shall report the same to the collector of customs, at the port where the ship is registered, and thereupon the registered tonnage shall be altered, and the deduction aforesaid in respect of space disallowed, unless and until it shall be certified by such surveyor, or by some other surveyor appointed by the board of trade, that the provisions of the Act in respect of such place are fully complied with :
- (8.) If any such place in any ship is not kept free from goods and stores as aforesaid, the master shall be deemed to be in fault, and shall for every such failure to comply with the provisions of this section forfeit and pay to each seaman lodged in such place the sum of one shilling a day for each day after complaint made to him by any two or more of such seamen during which any goods or stores, not being the personal property of the crew, are stored or kept therein.
- (9.) If in any other respect the provisions of this section are not observed with respect to any such place in any ship the owner shall be deemed to be in fault, and shall for every failure to comply with the provisions of this section incur a penalty not exceeding twenty pounds.

(See Imp. Act, 31 & 32 Vict., c. 129, s. 3.)

10. The following rules shall be observed with respect to the medical inspection of seamen, that is to say :

Rules for
inspection
of seamen

- (1.) At any port where there is a local marine board the local marine board, and at other ports in the United Kingdom the board of trade, may appoint a medical inspector of seamen :
- (2.) Such medical inspector of seamen shall, on application by the master or owner of any ship, examine any seaman applying for employment in such ship, and shall give to the superintendent of the mercantile marine office a report under his hand stating whether such seaman is in a fit state for duty at sea, and a copy of such report shall be given to the master or owner of the ship :
- (3.) The master or owner applying for such inspection shall pay to the superintendent such fees as the board of trade direct, and such fees shall be paid into and form part of the mercantile marine fund :
- (4.) The said medical inspectors shall be remunerated for their services as the board of trade may direct, and such remuneration shall be paid out of the mercantile marine fund :
- (5.) In *British Possessions* out of the United Kingdom the Governor or other Officer administering the Government for the time being shall have the power of appointing medical inspectors of seamen, of charging fees for inspections, when applied for, and of determining the remuneration to be paid to such inspectors.

11. If any *British* subject commits any crime or offence on board any *British* ship, or on board any foreign ship to which he does not belong, any court of justice in Her Majesty's Dominions, which would have had cognizance of such crime or offence if committed on board a *British* ship within the limits of the ordinary jurisdiction of such court, shall have jurisdiction to hear and determine the case as if the said crime or offence had been committed as last aforesaid.

Offences by
British sub-
jects on board
ships.

(*Sec. 12 authorises Her Majesty to commission the Harbour Master at Holyhead as a justice of the peace.*)

31 & 32 VICT., c. 129—1868.

An Act to amend the Law relating to the Registration of ships in *British Possessions*.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Grant of terminable certificates of registry, subject to conditions, in colonies.

1. The Governor or Officer lawfully administering the Government of any *British Possession* may from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that Possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Ship to be deemed registered.

2. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered *British* ship.

Governors abroad may appoint surveyors.

3. The Governor of any *British Possession* abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such Possession all the powers with respect to the inspection of crew spaces that are conferred upon the board of trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

Construction of Act.

4. This Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short Title.

5. This Act may be cited as The Colonial Shipping Act, 1868.

32 VICT., c. 11—1869.

An Act for amending the Law relating to the Coasting Trade and Merchant Shipping in *British Possessions*.

[13th May, 1869.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as "*The Merchant Shipping* Short Title.
(Colonial) Act, 1869."

2. In this Act, unless the context otherwise requires,— Definition of terms.

The term "*British Possession*" means any territory or place situate within Her Majesty Dominions, and not forming part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined, are deemed to be one *British Possession* for the purposes of this Act: "British possession."

The term "*Legislature*" includes any person or persons who exercise legislative authority in the *British Possession*, and where there are local legislatures as well as a central legislature, means the central legislature only. "Legislature."

3. This Act shall be proclaimed in every *British Possession* by the Governor thereof, as soon as may be, after he receives notice of this Act, and shall come into operation in that *British Possession* on the day of such proclamation, which day is hereinafter referred to as the commencement of this Act. Commencement of Act.

Coasting Trade.

4. After the commencement of this Act the Legislature of a *British Possession*, by any Act or Ordinance, from time to time, may regulate the coasting trade of that *British Possession*, subject in every case to the following conditions:— Regulation of coasting trade by Colonial Legislature.

- (1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into

31 & 32 VICT., c. 129—1868.

An Act to amend the Law relating to the Registration of ships in *British Possessions*.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Grant of terminable certificates of registry, subject to conditions, in colonies.

1. The Governor or Officer lawfully administering the Government of any *British Possession* may from time to time, with the approval of one of Her Majesty's Principal Secretaries of State, make regulations providing that on an application for registration under the Merchant Shipping Act, 1854, in that Possession of any ship not exceeding sixty tons burden, the registrar may grant, in lieu of a certificate of registry as required by that Act, a certificate of registry to be terminable at the end of six months from the granting thereof, or of any longer period; and all certificates of registry granted under any such regulations shall be in such form and shall have effect subject to such conditions as the regulations prescribe.

Ship to be deemed registered.

2. Notwithstanding anything in the Merchant Shipping Act, 1854, or in any other Act, any ship to which a certificate is granted under any such regulations shall, while such certificate is in force, and in relation to all things done or omitted during that period, be deemed a registered *British* ship.

Governors abroad may appoint surveyors.

3. The Governor of any *British Possession* abroad may from time to time appoint fit and proper persons to be surveyors, who shall have and exercise within such Possession all the powers with respect to the inspection of crew spaces that are conferred upon the board of trade surveyors in the United Kingdom by section nine of the Merchant Shipping Act, 1867.

Construction of Act.

4. This Act shall be read as one Act with the Merchant Shipping Act, 1854, and the Acts amending the same.

Short Title.

5. This Act may be cited as The Colonial Shipping Act, 1868.

32 VICT., c. 11—1869.

An Act for amending the Law relating to the Coasting Trade and Merchant Shipping in *British Possessions*.

[13th May, 1869.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Preliminary.

1. This Act may be cited as "*The Merchant Shipping* Short Title.
(*Colonial*) Act, 1869."

2. In this Act, unless the context otherwise requires,— Definition of terms.

The term "*British Possession*" means any territory or place situate within Her Majesty Dominions, and not forming part of the United Kingdom, or of the Channel Islands, or Isle of Man; and all territories and places under one legislature as hereinafter defined, are deemed to be one *British Possession* for the purposes of this Act: "British possession."

The term "*Legislature*" includes any person or persons who exercise legislative authority in the *British Possession*, and where there are local legislatures as well as a central legislature, means the central legislature only. "Legislature."

3. This Act shall be proclaimed in every *British Possession* by the Governor thereof, as soon as may be, after he receives notice of this Act, and shall come into operation in that *British Possession* on the day of such proclamation, which day is hereinafter referred to as the commencement of this Act. Commencement of Act.

Coasting Trade.

4. After the commencement of this Act the Legislature of a *British Possession*, by any Act or Ordinance, from time to time, may regulate the coasting trade of that *British Possession*, subject in every case to the following conditions:— Regulation of coasting trade by Colonial Legislature.

- (1.) The Act or Ordinance shall contain a suspending clause, providing that such Act or Ordinance shall not come into

into operation until Her Majesty's pleasure thereon has been publicly signified in the *British Possession* in which it has been passed.

- (2.) The Act or Ordinance shall treat all *British ships* (including the ships of any *British Possession*) in exactly the same manner as ships of the *British possession* in which it is made:
- (3.) Where by treaty made before the passing of this Act, Her Majesty has agreed to grant to any ships of any foreign state, any rights or privileges in respect of the coasting trade of any *British Possession*, such rights and privileges shall be enjoyed by such ships for so long as Her Majesty has already agreed or may hereafter agree to grant the same, anything in the Act or Ordinance to the contrary notwithstanding.

(See *Dom. Act, 33 Vict., c. 14.*)

Sections 398
and 163 of 16 &
17 Vict., c. 107
repealed.

5. The following sections of "*The Customs Consolidation Act, 1853*," are hereby repealed, namely:

Section three hundred and twenty-eight, as from the commencement of this Act:

Section one hundred and sixty-three as from the date in the case of each *British Possession* at which either an Act or Ordinance with respect to the coasting trade made within two years after the commencement of this Act in such *British Possession* comes into operation, or if there is no such Act or Ordinance, at which the said two years expire.

(See *Dom. Act, 33 Vict., c. 14.*)

Merchant Shipping.

Registrars of
British ships
in British pos-
sessions.

6. It shall be lawful for Her Majesty, by Order in Council, from time to time to declare, with respect to the *British Possession* mentioned in the order, the description of persons who are to be registrars of *British ships* in that *British Possession*, and to revoke any order so made; after the date specified in the order, or, if no date is specified,—after the date of the proclamation of the order in the *British Possession*, the order shall have effect as if it were contained in section thirty of "*The Merchant Shipping Act, 1854*."

(But see *Dom. Act, 36 Vict., c. 128, s. 10.*)

"Application
of Merchant
Shipping Acts
to Canada.

7. In the construction of "*The Merchant Shipping Act, 1854*," and of the Acts amending the same, Canada shall be deemed to be one *British Possession*.

8. Where the legislature of any *British Possession* provides for the examination of, and grant of certificates of competency to persons, intending to act as masters, mates or engineers on board *British* ships, and the board of trade reports to Her Majesty that they are satisfied that the examinations are so conducted as to be equally efficient as the examinations for the same purpose in the United Kingdom, under the Acts relating to Merchant Shipping, and that the certificates are granted on such principles as to show the like qualifications and competency as those granted under the said Acts, and are liable to be forfeited, for the like reasons and in the like manner, it shall be lawful for Her Majesty, by Order in Council,

Colonial certificates to master, mates and engineers.

- (1.) To declare that the said certificates shall be of the same force as if they had been granted under the said Acts :
- (2.) To declare that all or any of the provisions of the said Acts which relate to certificates of competency granted under those Acts shall apply to the certificates referred to in the said order :
- (3.) To impose such conditions and to make such regulations with respect to the said certificates, and to the use, issue, delivery, cancellation and suspension thereof, as to Her Majesty may seem fit, and to impose penalties not exceeding fifty pounds for the breach of such conditions and regulations.

Upon the publication in the *London Gazette* of any such Order in Council as last aforesaid, the provisions therein contained shall, from a date to be mentioned for the purpose in such order, take effect as if they had been contained in this Act.

It shall be lawful for Her Majesty in Council to revoke any order made under this section.

(See *Dom. Acts*, 31 Vict., c. 65 ; 33 Vict., c. 70 ; and 36 Vict., c. 53.)

34 & 35 VICT., c. 110.

An Act to amend the Merchant Shipping Acts, 1871.

[21st August, 1871.]

WHEREAS it is expedient to amend the Merchant Shipping Acts :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

Short Title

1. This Act may be cited as The Merchant Shipping Act, 1871.

Act to be construed with Merchant Shipping Act.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1871.

Commencement of Act.

3. This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-two.

Registry (Part II. of Merchant Shipping Act, 1854.)

(Section 4 prescribed the particulars to be marked upon ships before registry, but is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33; and see Section 3 of that Act.)

Ship's draught of water to be recorded.

5. The board of trade may, in any case or class of cases in which they think it expedient so to do, direct any person appointed by them for the purpose to record, in such manner and with such particulars as the Board of Trade direct, the draught of water of any sea-going ship, as shown on the scale of feet on her stem and on her stern post, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea; and such person shall thereupon keep such record, and shall from time to time forward the same, or a copy thereof, to the Board of Trade; and such record, or any copy thereof, if produced by or out of the custody of the Board of Trade, shall be admissible in evidence of the draught of water of the ship at the time specified in the record.

The

The master of every British sea-going ship shall, upon her leaving any dock, wharf, port, or harbour for the purpose of proceeding to sea, record her draught of water in the official log-book (if any), and shall produce such record to any principal officer of customs whenever required by him so to do, or in default of such production shall incur a penalty not exceeding twenty pounds.

6. With respect to the names of British ships, the following rules shall be observed :

Rules to be
observed in
naming of
ships.

- (1.) A ship shall not be described by any name other than that by which she is for the time being registered :
- (2.) No change shall be made in the name of a ship without the previous permission of the Board of Trade signified in writing under their seal, or under the hand of one of their secretaries or assistant secretaries. Upon such permission being granted, the ship's name shall forthwith be altered in the register book, in the ship's certificate of registry, and on her bows and stern :
- (3.) If in any case it is shown to the satisfaction of the Board of Trade that the name of any ship has been changed without such permission as aforesaid, they shall direct that her name be altered into that which she bore before such change, and the name shall be altered in the register book, in the ship's certificate of registry, and on her bows and stern accordingly :
- (4.) Where a ship having once been registered has ceased to be so registered, no person, unless ignorant of such previous registry, (proof whereof shall lie on him,) shall apply to register, and no registrar shall knowingly register such ship, except by the name by which she was previously registered, unless with the permission of the Board of Trade granted as aforesaid.

Every person who acts or suffers any person under his control to act in contravention of this section, or who omits to do, or suffers any person under his control to omit to do, anything required by this section, shall for each offence incur a penalty not exceeding one hundred pounds, and any principal officer of customs may detain the ship until the provisions of this section are complied with.

Application for a change of name shall be made in writing to the Board of Trade. If the Board are of opinion that the application is made on reasonable grounds they may entertain the same, and shall thereupon require notice thereof to be published in such form and manner as they think fit.

(See

(See *Imp. Act, 36 & 37 Vict., c. 85, s. 5*; and *Dom. Act, 36 Vict., c. 128, s. 22.*)

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

Survey of ships
alleged by sea-
men to be un-
seaworthy.

7. Whenever in any proceeding against any seaman or apprentice belonging to any ship for desertion, or for neglecting or refusing to join or to proceed to sea in his ship, or for being absent from or quitting the same without leave, it is alleged by one-fourth of the seamen belonging to such ship, or, if the number of such seamen exceed twenty, by not less than five such seamen, that such ship is by reason of unseaworthiness, overloading, improper loading, defective equipment, or for any other reason, not in a fit condition to proceed to sea, or that the accommodation in such ship is insufficient, the court having cognizance of the case shall take such means as may be in their power to satisfy themselves concerning the truth or untruth of such allegation, and shall for that purpose receive the evidence of the person or persons making the same, and shall have power to summon any other witnesses whose evidence they may think it desirable to hear; the court shall thereupon, if satisfied that the allegation is groundless, proceed to adjudicate, but if not so satisfied shall cause such ship to be surveyed :

Provided that no seaman or apprentice charged with desertion, or with quitting his ship without leave, shall have any right to apply for a survey under this section unless previously to his quitting his ship he has complained to the master of the circumstances so alleged in justification.

For the purposes of this section, the court shall require any of the surveyors appointed by the Board of Trade, under the Merchant Shipping Act, 1854, or any person appointed for the purpose by the Board of Trade, or, if such surveyor or person cannot be obtained without unreasonable expense or delay, or is not, in the opinion of the court, competent to deal with the special circumstances of the case, then any other impartial surveyor appointed by the court and having no interest in the ship, her freight, or cargo, to survey the ship, and to answer any question concerning her which the court may think fit to put. Such surveyor or other person shall survey the ship, and make his report in writing to the court, including an answer to every question put to him by the court. The court shall cause such report to be communicated to the parties, and unless it is proved to the satisfaction of the court that the opinions expressed in such report are erroneous, the court shall determine the questions before them in accordance with those opinions.

For

For the purposes of such survey, a surveyor shall have all the powers of an inspector appointed by the Board of Trade, under the Merchant Shipping Act, 1854.

The costs (if any) of the survey shall be determined by the Board of Trade according to a scale of fees to be fixed by them, and shall be paid in the first instance out of the mercantile marine fund.

If it is proved to the satisfaction of the court that the ship is in a fit condition to proceed to sea, or, as the case may be, that the accommodation is sufficient, the costs of the survey shall be paid by the person or persons upon whose demand, or in consequence of whose allegation, the survey was made, and may be deducted by the master or owner out of the wages due or to become due to such person or persons, and shall be paid over to the Board of Trade.

If it is proved that the ship is not in a fit condition to proceed to sea, or, as the case may be, that the accommodation is insufficient, the cost of the survey shall be paid to the Board of Trade by the master or owner.

8. Any naval court may, if they think fit, direct a survey of any ship which is the subject of an investigation held before them, and such survey shall be made in the same way, and the surveyor who makes the same, shall have the same powers, as if the survey had been directed by a competent court in the course of proceedings against a seaman or apprentice for desertion or a kindred offence.

Power for
naval courts to
direct survey
of ships.

Safety (Part IV. of Merchant Shipping Act, 1854.)

(Sec. 9 prescribed the duties of Masters in case of collision but is repealed by Imp. Act, 36 & 37 Vict., c. 85, sec. 33, and see ss. 16 & 17 of that Act.)

(Sec. 10 gave power to the Board of Trade to declare ships unseaworthy, but did not apply to Canada and is repealed by Imp. Act, 36 & 37 Vict., c. 85, s. 33.)

(Sec. 11 made the sending a ship to sea in an unseaworthy state so as to endanger the lives of any person on board a misdemeanour, but this sec. is repealed by Imp. Act, 38 & 39 Vict., c. 88, s. 4, post, and a new section making more stringent provisions for the same purpose, is substituted.)

Repeal of certain sections of 17 and 18 Vict., c. 104, and 18 and 19 Vict., c. 91.

19. On and after the first day of January, one thousand eight hundred and seventy-two, the twenty-fifth and thirty-fourth sections of the Merchant Shipping Act, 1854, and the thirteenth section of the Merchant Shipping Act Amendment Act, 1855, shall be repealed.

35 & 36 VICT., c. 73—1872.

An Act to amend the Merchant Shipping Acts and the Passenger Acts.

WHEREAS it is expedient to amend the Merchant Shipping Acts and the Passenger Acts :

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Preliminary.

Short Title. **1.** This Act may be cited as the Merchant Shipping Act, 1872.

Commencement of Act. **2.** This Act shall come into operation on the first day of January, one thousand eight hundred and seventy-three.

Measurement of Ships.

Transfer to Board of Trade of duties of Commissioners of Customs with respect to measurement of ships. **3.** The twenty-third, twenty-seventh, twenty-eighth, and twenty-ninth sections of the Merchant Shipping Act, 1854, the fourteenth section of the Merchant Shipping Act Amendment Act, 1855, and the fourth section of the Merchant Shipping Act, 1871, shall be read and construed as if the Board of Trade were therein named instead of the Commissioner of Customs.

Registry.

Transfer to Registrar-General of Seamen of duties of Commissioners of Customs with respect to registry of ships. **4.** The forty-sixth, fifty-fourth, ninety-second and ninety-fourth sections of the Merchant Shipping Act, 1854, shall be read and construed as if the Registrar General of Seamen were therein named instead of the Commissioners of Customs, and the returns required to be transmitted by the said ninety-fourth

fourth section of the Merchant Shipping Act, 1854, shall be transmitted to the Registrar General of Seamen and not to the custom house in London, and the Registrar General of Seamen shall be called the Registrar General of Shipping and Seamen.

Passenger Ships.

5. The sixth and seventh sections of the Passengers Act, 1855, except so much of the latter section as provides for the immunity of emigration officers, shall be repealed, and all powers and duties vested in or imposed on the Emigration Commissioners by the Passengers Act, 1855, and the Passengers Act Amendment Act, 1863, shall be transferred to and imposed on the Board of Trade.

Transfer to Board of Trade of powers and duties of Emigration Commissioners.

In the construction and for the purposes of the said Acts the name of the Board of Trade shall be deemed to be substituted for the name of the Emigration Commissioners and anything which might, if this Act had not passed, have been done by the Emigration Commissioners, whether acting independently or under the sanction or authority of one of Her Majesty's Principal Secretaries of State, may be done by the Board of Trade independently of such sanction or authority.

6. The provisions contained in the eighty-third section of the Passengers' Act, 1855, shall extend to any forms of application or other papers issued by or under the authority of one of Her Majesty's Principal Secretaries of State, for the use of persons desirous of emigrating by his assistance, and to any certificate, document, or statement adduced in support of any application to such Secretary for such assistance.

Extension of penalties for offences connected with applications for assistance in emigration.

7. The powers conferred by the thirteenth section of the Passengers' Act Amendment Act, 1863, on one of Her Majesty's Principal Secretaries of State, shall be transferred to the Board of Trade.

Transfer to Board of Trade of powers of Secretary of State under Passengers' Act.

Annual Survey of Passenger Steamers.

8. The three hundred and fourth section of the Merchant Shipping Act, 1854, shall be repealed, and every passenger steamer shall be surveyed once at the least in every year, in the manner mentioned in the fourth part of that Act.

Passenger steamers to be surveyed once in every year, according to 17 and 18 Vict., c. 104.

The fees to be charged for certificates issued in respect of such survey, shall not exceed for a yearly certificate twice the sum named in the table marked T in the schedule to the said Act as chargeable for a six months' certificate.

(Sections 9, 10 and 11, amend the provisions of the Principal Act as to pilotage, but do not extend to Canadian waters. Section 12 relates to fees for testing chain cables and applies only to the United Kingdom.)

General.

General.

Duties of surveyors.

13. All duties in relation to the survey and measurement of ships under this Act or the Acts amended hereby shall be performed by the surveyors appointed under the fourth part of the Merchant Shipping Act, 1854, in accordance with such regulations as may be from time to time made by the Board of Trade.

Fees and salaries of surveyors and emigration officers.

14. All fees payable in respect of the survey or measurement of ships under this Act or the Acts amended hereby, or in respect of any services performed by any person employed under the authority of the Passengers' Act, 1855, shall be paid to the superintendent of a mercantile marine office at such times and in such manner as the Board of Trade may from time to time direct, and shall be carried to the mercantile marine fund; and the salaries of surveyors and other expenses connected with the survey and measurement of ships under this Act or the Acts amended hereby, and also so much of the salaries and expenses of persons employed under the authority of the Passengers' Act, 1855, as has heretofore been paid by fees shall be paid out of the mercantile marine fund.

Penalty on surveyor, etc., receiving gratuity, etc., for duties performed under this Act.

15. If any surveyor, or any person employed under the authority of the Passengers' Act, 1853, demands or receives directly or indirectly, otherwise than by the direction of the Board of Trade, any fees, remuneration, or gratuity whatever, in respect of any of the duties performed by him under this Act or Acts amended hereby, he shall for every such offence incur a penalty not exceeding fifty pounds.

(Section 16 applies only to home-trade ships.)

Her Majesty may accept offers of persons recommended by the Admiralty to serve as officers of the Royal Naval Reserve.

17. It shall be lawful for Her Majesty to accept from time to time the offers of any person whom the Lord High Admiral or the Commissioners for executing his office may recommend, to serve as Officers of Reserve in the Royal Navy upon such terms and conditions as to Her Majesty may from time to time seem fit, and the "Officers of the Royal Naval Reserve Act, 1863," shall be read and construed as if this clause formed part of the said Act.

36 & 37 VICT., c. 85.

An Act to amend the Merchant Shipping Acts.

Be it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as the Merchant Shipping Act, Short Title. 1873.

2. This Act shall be construed as one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1873. Construction of Act.

Registry (Part II. of Merchant Shipping Act, 1854.)

3. Every *British* ship registered after the passing of this Act shall before registry, and every *British* ship registered before the passing of this Act, shall on or before the first day of January, one thousand eight hundred and seventy-four, be permanently and conspicuously marked to the satisfaction of the Board of Trade, as follows : Particulars to be marked on British ships.

Her name shall be marked on each of her bows, and her name and the name of her port of registry shall be marked on her stern on a dark ground in white or yellow letters, or on a light ground in black letters, such letters to be of a length not less than four inches and of proportionate breadth :

Her official number and the number denoting her registered tonnage shall be cut in on her main beam :

A scale of feet denoting her draught of water shall be marked on each side of her stern and of her stern-post in Roman capital letters, or in figures, not less than six inches in length, the lower line of such letters or figures to coincide with the draught line denoted thereby. Such letters or figures shall be marked by being cut in and painted white or yellow on a dark ground, or in such other way as the Board of Trade may from time to time approve. The Board of Trade may, however, exempt any class of ships from the requirements of this section or any of them :

If the scale of feet showing the ship's draught of water is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds :

The

The marks required by this section shall be permanently continued and no alteration shall be made therein, except in the event of any of the particulars thereby denoted being altered in the manner provided by the Merchant Shipping Acts 1854 to 1873 :

Any owner or master of a *British* ship who neglects to cause his ship to be marked as aforesaid, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate any of the said marks, except in the event aforesaid, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds. and any officer of customs, on receipt of a certificate from a surveyor or inspector of the Board of Trade that a ship is insufficiently or inaccurately marked, may detain the same until the insufficiency or inaccuracy has been remedied :

Provided, that no fishing vessel, duly registered, lettered, and numbered, in pursuance of the Sea Fisheries Act, 1868, shall be required to have her name and port of registry marked under this section :

Provided also, that if any registered *British* ship, if not within a port of the United Kingdom at any time before the first day of January, one thousand eight hundred and seventy-four, she shall be marked as by this section required within one month after her next return to a *British* port of registry subsequent to that date.

(As to additional marks to be made on *British* ships see Imp. Act, 38 & 39 Vict., c. 88, s s. 5 & 6.)

Particulars to be entered in record of draught of water.

4. The records of the draughts of water of any sea-going ships required under section five of the Merchant Shipping Act, 1871, shall in addition to the particulars thereby required, specify the extent of her clear side in feet and inches.

The term "clear side" means the height from the water to the upper side of the deck, from which the depth of hold as stated in the register is measured, and the measurement of the clear side is to be taken at the lowest part of the side.

Every master of a sea-going ship shall, upon the request of any person appointed to record the ship's draught of water, permit such person to enter the ship and to make such inspections and take such measurements as may be requisite for the purpose of such record, and any master who fails so to do, or impedes or suffers any one under his control to impede any person so appointed in the execution of his duty, shall for each offence incur a penalty not exceeding five pounds.

Rules as to names of foreign ships

5. Whereas a foreign ship, not having at any previous time been registered as a *British* ship, becomes a *British* ship, no person

person shall apply to register, and no registrar shall knowingly register such ship except by the name she bore as a foreign ship immediately before becoming a *British* ship, unless with the permission of the Board of Trade granted in manner directed by section six of the Merchant Shipping Act, 1871.

placed on British register.

Any person who acts, or suffers any person under his control to act, in contravention of this section, shall for each offence incur a penalty not exceeding one hundred pounds.

6. When a ship has ceased to be registered as a *British* ship by reason of having been wrecked or abandoned, or for any reason other than capture by the enemy or transfer to a person not qualified to own a *British* ship, such ship shall not be re-registered until she has, at the expense of the applicant for registration, been surveyed by one of the surveyors appointed by the Board of Trade and certified by him to be seaworthy.

Restrictions on re-registration of abandoned ships.

Masters and Seamen (Part III. of Merchant Shipping Act, 1854.)

7. Any agreement with a seamen made under section one hundred and forty-nine, of the Merchant Shipping Act, 1854, may, instead of stating the nature and duration of the intended voyage or engagement as by that section required, state the maximum period of the voyage or engagement and the places or parts of the world (if any) to which the voyage or engagement is not to extend.

Agreements with seamen.

(Section 8 relates to agreements with fishermen by owners of ships engaged in fishing off the coasts of the United Kingdom.)

9. If any seaman or apprentice belonging to any ship is detained on a charge of desertion or any kindred offence, and if, upon a survey of the ship being made under section seven of the Merchant Shipping Act, 1871, it is proved that she is not in a fit condition to proceed to sea, or that her accommodation is insufficient, the owner or master of the ship shall be liable to pay to such seaman or apprentice such compensation for his detention as the court having cognizance of the proceedings may award.

Compensation to seamen for unnecessary detention on charge of desertion.

(See *Imp. Act., 38 & 39 Vict., c. 88, s. 8, post.*)

10. In any case where the business of a mercantile marine office is conducted otherwise than under a local marine board, the Board of Trade may, if they think fit, instead of conducting such business at a custom house or otherwise, establish a mercantile marine office, and for that purpose procure the requisite buildings and property, and from time to time appoint and remove all the requisite superintendents, deputies, clerks, and servants. They may also in the like case make all such provisions and exercise all such powers with respect to the holding of examinations for the purpose of granting certificates

Power for Board of Trade to establish mercantile marine offices and to hold examinations at certain ports.

certificates of competency as masters, mates, or engineers, to persons desirous of obtaining the same, as might have been made or exercised by a local marine board.

Power of Her Majesty by Order in Council to apply certain provisions of Merchant Shipping Acts to foreign ships.

11. Whenever it has been made to appear to Her Majesty that the government of any foreign state is desirous that any of the provisions of the Merchant Shipping Acts, 1854 to 1873, relating to the engagement and discharge of seamen, shall apply to the ships of such state, Her Majesty may, by Order in Council, declare that such of the said provisions as are in such order specified, shall subject to the limitations, if any, contained in the order, apply, and thereupon, so long as the order remains in force, such provisions shall apply, subject to the said limitations, to the ships of such state and to the owners, masters, officers and crews of such ships when not within the jurisdiction of such state, in the same manner in all respects as if such ships were *British* ships.

It shall and may be lawful for Her Majesty, from time to time, by Order in Council, to add to, alter or repeal any Order made under this section.

Safety and Prevention of Accidents (Part IV. of Merchant Shipping Act, 1854.)

Survey of ships suspected of being unseaworthy.

12. Where the Board of Trade have received a complaint or have reason to believe that any *British* ship is by reason of the defective condition of her hull, equipment, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, they may, if they think fit, appoint some competent person or persons to survey such ship and the equipments, machinery, and cargo thereof, and to report thereon to the Board.

Any person so appointed may, for the purpose of such survey, require the unloading or removal of any cargo, ballast or tackle, and shall have all the powers of an inspector appointed under The Merchant Shipping Act, 1854.

Any person who (having notice of the intention to hold such survey) wilfully does or causes to be done any act by which the person appointed to make such survey is prevented from or obstructed in ascertaining the condition of the ship, her equipments, machinery and cargo shall be liable to a penalty not exceeding fifty pounds.

The Board of Trade may, if they think fit, order that any ship be detained for the purpose of being surveyed under this section, and thereupon any officer of customs may detain such ship until her release be ordered either by the Board of Trade, or by any court to which an appeal is given under this Act.

Upon the receipt of the report of the person making any such survey, the Board may, if, in their opinion, the ship cannot proceed to sea without serious danger to human life, make

make such further order as they may think requisite as to the detention of the ship, or as to her release, either absolutely or upon the performance of such conditions with respect to the execution of repairs or alterations or the unloading or re-loading of cargo, as the Board may impose. They may also, from time to time, vary or add to such order.

A copy of any such order, and of the report upon which it was founded, and also of any variation of, or addition to, such order, shall be delivered as soon as possible to the owner or master of the ship to which it relates.

When a ship has been detained under this section she shall not be released by reason of her *British* register having been closed.

(See *Imp. Act, 38 & 39 V., c. 88, s s. 1 & 2, post.*)

13. If upon the survey of a ship under this Act, she is reported to have been at the time of the survey, having regard to the nature of the service for which she was then intended, unfit to proceed to sea without serious danger to human life, the expenses incurred by the Board of Trade in respect of the survey shall be paid by the owner of the ship to the Board of Trade, and shall, without prejudice to any other remedy, be recoverable by them in the same manner as salvage is recoverable.

Costs of
survey.

If upon such survey the ship is not reported to have been unfit to proceed to sea, having regard to the nature of the service for which she was intended, the Board of Trade shall be liable to pay compensation to any person for any loss or damage which he may have sustained by reason of the detention of the ship for the purpose of the survey or otherwise in respect of such survey.

Where a complaint has been made to the Board of Trade that a ship is not fit to proceed to sea, they may, if they think fit, before ordering a survey of the ship, require the complainant to give or provide such security as they may think sufficient for the payment of the costs and expenses which they may incur in respect of the survey of the ship, and of the compensation which they may be rendered liable to pay for loss or damage caused by her detention, for the purpose of such survey or otherwise in respect of such survey.

Where a ship has been surveyed under this Act in consequence of a complaint made to the Board of Trade, if upon such survey being made it appear that such complaint was made without reasonable cause, the expenses incurred by the Board in respect of the survey of the ship and the amount (if any) which the Board may have been rendered liable to pay in respect of any loss or damage caused by her detention, shall be recoverable by the Board from such complainant.

All

All moneys payable by the Board of Trade in respect or by reason of the survey or detention of a ship under this Act, shall, subject to the right by this section provided of recovering such moneys from the complainant, be paid out of moneys to be provided by Parliament.

(See note to Sec. 12, *supra*.)

Appeal from
decision of
Board of
Trade.

14. If the owner of any ship surveyed under this Act is dissatisfied with any order of the Board of Trade made upon such survey, he may apply to any of the following courts having jurisdiction in the place where such ship was surveyed; that is to say,—

In *England*, to any court having admiralty jurisdiction :

In *Ireland*, to any court having jurisdiction under the Court of Admiralty (*Ireland*) Act, 1867 :

In *Scotland*, to the court of the sheriff of the county.

The court may upon such application, if they think fit, appoint one or more competent persons to survey the ship anew, and any surveyor so appointed shall have all the powers of the person by whom the original survey was made. Such survey shall, if so required by the Board of Trade or the shipowner, be made in the presence of any person or persons appointed by them respectively to attend at the survey.

The court to which such application is made may make such order as to the detention or release of the ship, as to the payment of any costs and damages which may have been occasioned by her detention, as to the payment of the expenses of the original survey and of the survey anew and otherwise as to the payment of any costs of and incident to the application as to the court may seem just.

(The remaining clauses of this section related only to applications to county and local courts in *England* and *Ireland* respectively. See note to Sec. 12, *supra*.)

Power of
Board of Trade
to vary re-
quirements
as to boats.

15. In the case of any ship surveyed under the fourth part of the Merchant Shipping Act, 1854, the Board of Trade may, at the request of the owner, authorize the reduction of the number and the variation of the dimensions of the boats required for the ship by section two hundred and ninety-two of that Act, and also the substitution of rafts or other appliances for saving life for any such boats, so nevertheless that the boats so reduced or varied and the rafts or other appliances so substituted be sufficient for the persons carried on board the ship.

Section two hundred and ninety-three of the said Act shall extend to any such rafts or appliances in the same manner as if they were boats.

16. In every case of collision between two vessels it shall be the duty of the master or person in charge of each vessel, if and so far as he can do so without danger to his own vessel, crew, and passengers (if any), to stay by the other vessel until he has ascertained that she has no need of further assistance, and to render to the other vessel, her master, crew, and passengers (if any), such assistance as may be practicable and as may be necessary, in order to save her from any danger caused by the collision; and also to give to the master or person in charge of the other vessel, the name of his own vessel and her port of registry and of the port or place to which she belongs, and also the names of the ports and places from which and to which she is bound.

Duties of masters in case of collision.

If he fail so to do and no reasonable cause is shewn, the collision shall, in the absence of proof to the contrary, be deemed to have been caused by his wrongful act, neglect, or default.

Every master or person in charge of a *British* vessel who fails, without reasonable cause, to render such assistance or give such information as aforesaid, shall be deemed guilty of a misdemeanour, and if he is a certificated officer an inquiry into his conduct may be held and his certificate may be cancelled or suspended.

(*See Dom. Act, 31 Vict., c. 58, s. 11.*)

17. If in any case of collision it is proved to the court before which the case is tried that any of the regulations for preventing collisions contained in or made under the Merchants' Shipping Acts, 1854 to 1873, has been infringed, the ship by which such regulation shall be deemed to be in fault, unless it is shown to the satisfaction of the court that the circumstances of the case made departure from the regulation necessary.

Liability for infringement of regulations in cases of collision.

(*See Dom. Act, 31 Vict., c. 58, s. 6.*)

18. The signals specified in the first schedule to this Act shall be deemed to be signals of distress.

Signals of distress.

Any master of a vessel who uses or displays, or causes or permits any person under his authority to use or display any of the said signals except in the case of a vessel being in distress, shall be liable to pay compensation for any labour undertaken, risk incurred, or loss sustained, in consequence of such signals having been supposed to be a signal of distress, and such compensation may without prejudice to any other remedy be recovered in the same manner in which salvage is recoverable.

19. If a vessel requires the services of a pilot, the signals to be used and displayed shall be those specified in the second schedule of this Act.

Signals for pilots.

Any

Any master of a vessel who uses, or causes or permits any person under his authority to use or display any of the said signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, shall incur a penalty not exceeding twenty pounds.

Power to alter
rules as to sig-
nals.

20. Her Majesty may from time to time by Order in Council repeal or alter the rules as to signals contained in the schedules to this Act, or make new rules in addition thereto, or in substitution therefor, and any alterations in or additions to such rules made in manner aforesaid shall be of the same force as the rules in the said schedules.

Private sig-
nals.

21. Any shipowner who is desirous of using, for the purpose of a private code, any rockets, lights, or other similar signals, may register such signals with the Board of Trade, and the Board shall give notice of the signals so registered in such manner as they may think requisite for preventing such signals from being mistaken for signals of distress or signals for pilots.

The Board may refuse to register any signals which in their opinion cannot easily be distinguished from signals of distress or signals for pilots.

When any signal has been so registered the use or display thereof by any person acting under the authority of the shipowner in whose name it is registered, shall not subject any person to any of the penalties or liabilities by this Act imposed upon persons using or displaying signals improperly.

Notice to be
given of appre-
hended loss of
ship.

22. If the managing owner or in the event of there being no managing owner, the ship's husband, of any *British* ship have reason, owing to the non-appearance of such ship or to any other circumstance, to apprehend that such ship has been wholly lost, he shall, as soon as conveniently may be, send to the Board of Trade notice in writing of such loss and of the probable occasion thereof, stating the name of the ship and her official number (if any), and the port to which she belongs, and if he neglects to do so within a reasonable time, he shall incur a penalty not exceeding fifty pounds.

Restrictions
on carriage of
dangerous
goods.

23. If any person sends or attempts to send by, or not being the master or owner of the vessel, carries or attempts to carry in any vessel, *British* or foreign, any dangerous goods (that is to say), aquafortis, vitriol, naphtha, benzine, gunpowder, lucifer matches, nitro-glycerine, petroleum, or any other goods of a dangerous nature, without distinctly marking their nature on the outside of the package containing the same, and give written notice of the nature of such goods and of the name and address of the sender or carrier thereof to the master or owner of the vessel at or before the time

of

of sending the same to be shipped, or taking the same on board the vessel, he shall for every such offence incur a penalty not exceeding one hundred pounds; provided, that if such person shew that he was merely an agent in the shipment of any such goods as aforesaid, and was not aware and did not suspect that the goods shipped by him were of a dangerous nature, the penalty which he incurs shall not exceed ten pounds.

24. If any person knowingly sends or attempts to send by or carries or attempts to carry in any vessel, *British* or foreign, any dangerous goods or goods of a dangerous nature under a false description, or falsely describes the sender or carrier thereof, he shall incur a penalty not exceeding five hundred pounds.

Penalty for mis-description of dangerous goods.

25. The master or owner of any vessel, *British* or foreign, may refuse to take on board any package or parcel which he suspects to contain goods of a dangerous nature, and may require it to be opened to ascertain the fact.

Power to refuse to carry goods suspected of being dangerous.

26. Where any dangerous goods are defined in this Act, or any goods which in the judgment of the master or owner of the vessel are of a dangerous nature, have been sent or brought aboard any vessel, *British* or foreign, without being marked aforesaid, or without such notice having been given, the master or owner of the vessel may cause such goods to be thrown overboard, together with any package or receptacle in which they are contained; and neither the master nor the owner of the vessel shall in respect of such throwing overboard be subject to any liability, civil or criminal, in any court.

Power to throw overboard dangerous goods.

27. Where any dangerous goods have been sent or carried, or attempted to be sent or carried, on board any vessel, *British* or foreign, without being marked as aforesaid or without such notice having been given as aforesaid, and where any such goods have been sent or carried, or attempted to be sent or carried under a false description, or the sender or carrier thereof has been falsely described, it shall be lawful for any court having admiralty jurisdiction to declare such goods, and any package or receptacle in which they are contained, to be and they shall thereupon be forfeited, and when forfeited shall be disposed of as the court directs.

Forfeiture of dangerous goods improperly sent.

The court shall have and may exercise the aforesaid powers of forfeiture and disposal, notwithstanding that the owner of the goods have not committed any offence under the provisions of this Act relating to dangerous goods, and be not before the court and have not notice of the proceedings, and notwithstanding that there be no evidence to show to whom the goods belong; nevertheless the court may in its discretion require such notice as it may direct to be given to the owner or shipper of the goods before the same are forfeited.

Having as to
dangerous
goods Act.

28. The provisions of this Act relating to the carriage of dangerous goods shall be deemed to be in addition to and not in substitution for, or in restraint of, any other enactment for the like object, so nevertheless that nothing in the said provisions shall be deemed to authorize that any person be sued or prosecuted twice in the same matter.

(See "*The Carriage of Dangerous Goods Act, 1873.*" [Dom. Act, 36 Vict., c. 8].)

(Section 29 provided that certain foreign ports might be declared ports of registry.)

Fees in respect
of surveys.

30. There shall be paid in respect of the several measurements, inspections and surveys, mentioned in the third schedule hereto, such fees not exceeding those specified in that behalf in the said schedule, as the Board of Trade may from time to time determine.

Board of Trade
may sue in
name of its
officers.

31. In any legal proceedings under the Merchant Shipping Acts, 1854 to 1873, the Board of Trade may take proceedings in the name of any of their officers.

Certain sections not to
come into
force until 1st
Nov., 1873.

32. The following sections of this Act (that is to say), sections sixteen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four, twenty-five, twenty-six, twenty-seven, and twenty-eight, shall not come into operation until the first day of November, one thousand eight hundred and seventy-three.

Repeal of certain sections of the Merchant Shipping Acts, 1862 and 1871, and of certain other sections of Merchant Shipping Acts 1854, 1862, and 1871.

33. Section twenty-nine of the Merchant Shipping Act Amendment Act, 1862, and sections four and ten of the Merchant Shipping Act, 1871, are hereby repealed; and on and after the first day of November, one thousand eight hundred and seventy-three, sections three hundred and twenty-seven and three hundred and twenty-nine of the Merchant Shipping Act, 1854; sections thirty-three and thirty-eight of the Merchant Shipping Act Amendment Act, 1862; and section nine of the Merchant Shipping Act Amendment Act, 1871, shall be repealed, but this repeal shall not affect

- (1.) Anything duly done before this Act comes into operation:
- (2.) Any right acquired or liability accrued before this Act comes into operation:
- (3.) Any penalty, forfeiture, or other punishment incurred or to be incurred, in respect of any offence committed before this Act comes into operation; or,
- (4.) The institution of any legal proceeding or any other remedy for ascertaining, enforcing, or recovering any such liability, penalty, forfeiture, or punishment as aforesaid.

SCHEDULES.

SCHEDULES.

SCHEDULE I.

Signals of Distress.

IN THE DAY-TIME.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress in the day time :—

1. A gun fired at intervals of about a minute.
2. The International Code signal of distress indicated by N C.
3. The distant signal consisting of a square flag, having, either above or below it, a ball, or anything resembling a ball.

AT NIGHT.—The following signals numbered 1, 2, and 3, when used or displayed together or separately, shall be deemed to be signals of distress at night :—

1. A gun fired at intervals of about a minute.
2. Flames on the ship (as from a burning tar barrel, oil barrel, etc.)
3. Rockets or shells of any colour or description fired one at a time at short intervals.

SCHEDULE II.

Signals to be made by Ships wanting a Pilot.

IN THE DAY-TIME.—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot in the day time, viz :—

1. To be hoisted at the fore, the Jack or other national colour usually worn by merchant ships, having round it a white border one fifth of the breadth of the flag ; or,
2. The International Code pilotage signal indicated by P T.

AT NIGHT.—The following signals numbered 1 and 2, when used or displayed together or separately, shall be deemed to be signals for a pilot at night, viz :—

1. The pyrotechnic light, commonly known as a blue light, every fifteen minutes ; or,
2. A bright white light, flashed or shewn at short or frequent intervals, just above the bulwarks, for about a minute at a time.

SCHEDULE

SCHEDULE III.

Table of Maximum Fees to be paid for the measurement, survey and inspection of merchant ships.

1. *For measurement of tonnage.*

	£	s.	d.
For a ship under 50 tons register tonnage.....	1	0	0
“ from 50 to 100 “	1	10	0
“ “ 100 to 200 “	2	0	0
“ “ 200 to 500 “	3	0	0
“ “ 500 to 800 “	4	0	0
“ “ 800 to 1,200 “	5	0	0
“ “ 1,200 to 2,000 “	6	0	0
“ “ 2,000 to 3,000 “	7	0	0
“ “ 3,000 to 4,000 “	8	0	0
“ “ 4,000 to 5,000 “	9	0	0
“ “ 5,000 and upwards.....	10	0	0

2. *For the inspection of the berthing or sleeping accommodation of the crew.*

	£	s.	d.
For each visit to the ship.....	0	10	0

Provided as follows :

1. The aggregate amount of the fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.
2. When the accommodation is inspected at the same time with the measurement of the tonnage, no separate fee shall be charged for such inspection.

3. *For the survey of emigrant ships.*

	£	s.	d.
(a) For an ordinary survey of the ship and of her equipments, accommodation, stores, light, ventilation, sanitary arrangements, and medical stores.....	10	0	0
(b) For a special survey.....	15	0	0
(c) In respect of the medical examination of passengers and crew for every hundred persons or fraction of a hundred persons examined.....	1	0	0

4. *For the inspection of lights and fog signals.*

For each visit made to a ship on the application of the owner, and for each visit made where the lights or fittings are found defective	0	10	0
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Provided that the aggregate amount of fees for any such inspection shall not exceed one pound (£1) whatever be the number of separate visits.

38 & 39 VICT., c. 88—1875.

An Act to make provisions for giving further powers to the Board of Trade for stopping unseaworthy ships.

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows :

1. The Board of Trade may forthwith, and from time to time, by special order, appoint a sufficient number of fit and proper persons, from their own staff or otherwise, to be officers having authority to detain unseaworthy ships, and may from time to time revoke any such appointment.

Appointment and powers of officers having authority to detain unseaworthy ships.

If any officer so appointed has reason to believe, upon inspection or otherwise, that any *British* ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, he may order that the ship be detained for the purpose of being surveyed. Any such order shall have the same effect as if it were an order of the Board of Trade, under section twelve, of the Merchant Shipping Act, 1873.

For the purpose of ascertaining whether a *British* ship is fit to proceed to sea, any officer so appointed may go on board the ship and inspect the same, or any part thereof, or any of the machinery, boats, equipments, or other articles on board thereof, not unnecessarily detaining or delaying her from proceeding on her voyage ; and any person who wilfully impedes him in the execution of his duty shall be liable to the same penalties, and may be dealt with in the same manner, as if the officer were an inspector appointed by the Board of Trade under the Merchant Shipping Act, 1854.

When any officer so appointed orders a ship to be detained, he shall forthwith report his proceedings to the Board of Trade.

An officer so appointed shall receive such remuneration for his services under this Act as the Treasury from time to time direct, and such remuneration shall be paid out of moneys to be provided by Parliament.

Ship to be detained on complaint of crew.

2. Whenever a complaint is made to the Board of Trade, or to any officer so appointed, by one-fourth the seamen belonging to any *British* ship, that the ship is, by reason of the defective condition of her hull, equipments, or machinery, or by reason of overloading or improper loading, unfit to proceed to sea without serious danger to human life, it shall be the duty of the Board or officer, as the case may be, if the complaint is made within time sufficient for that purpose before the sailing of the ship, without requiring any security for the payment of costs and expenses, to take proper steps for ascertaining whether the ship ought to be detained for the purpose of being surveyed under the Merchant Shipping Act, 1873.

Cargo of grain, &c.

3. From and after the first day of October, one thousand eight hundred and seventy-five, no cargo, of which more than one-third consists of any kind of grain, corn, rice, paddy, pulse, seeds, nuts, or nut kernels, shall be carried on board any *British* ship, unless such grain, corn, rice, paddy, pulse, nuts, or nut kernels, be contained in bags, sacks, or barrels, or secured from shifting by boards, bulkheads, or otherwise. This section shall not apply to any grain shipped previous to the first of October, one thousand eight hundred and seventy-five.

The master of any *British* ship who shall knowingly allow any cargo or part of a cargo to be shipped therein for carriage contrary to the provisions of this section, shall for every such offence incur a penalty not exceeding two hundred pounds.

Penalties for sending unseaworthy ships to sea.

4. Section eleven, of the Merchant Shipping Act, 1871, shall be repealed, and in lieu thereof it shall be enacted :

- (1.) Every person who sends a ship to sea in such unseaworthy state that the life of any person would be likely to be thereby endangered, and the managing owner of any *British* ship so sent to sea from any port in the United Kingdom, shall be guilty of a misdemeanour, unless he prove that he used all reasonable means to ensure her being sent to sea in a seaworthy state, or prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence in the same manner as any other witness :
- (2.) Every person who attempts, or is party to any attempt, to send to sea any ship in such unseaworthy state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he give such proof as aforesaid; and, for the purpose of giving such proof, such person may give evidence as aforesaid :

(3.)

- (3.) Every master of a *British* ship who knowingly takes the same to sea in such unseaworthy state that the life of any person would be likely to be thereby endangered, shall be guilty of a misdemeanour, unless he prove that her going to sea in such unseaworthy state was, under the circumstances, reasonable and justifiable; and, for the purpose of giving such proof, such person may give evidence as aforesaid :
- (4.) The owner of every *British* ship shall from time to time register, at the custom house of the port in the United Kingdom at which such ship is registered, the name of the managing owner of such ship, and if there be no managing owner, then of the person to whom the management of the ship is entrusted by and on behalf of the owner; and in case the owner fail or neglect to register the name of such managing owner or manager as aforesaid, he shall be liable, or if there be more owners than one, each owner shall be liable, in proportion to his interest in the ship, to a penalty not exceeding in the whole five hundred pounds each time that the said ship leaves any port in the United Kingdom, after the first day of November, one thousand eight hundred and seventy-five, without the name be duly registered as aforesaid :
- (5.) The term "managing owner" in subsection one shall include every person so registered as managing owner or as having the management of the ship for and on behalf of the owner :
- (6.) No prosecution under this section shall be instituted except by or with the consent of the Board of Trade :
- (7.) No misdemeanour under this section shall be punishable upon summary conviction, provided that the repeal enacted by this section shall not affect any punishment incurred or to be incurred in respect of any offence against the enactment hereby repealed, or any legal proceedings in respect of any such punishment, and any such legal proceeding may be carried on as if this Act had not passed.

5. Every *British* ship registered on or after the first day of November, one thousand eight hundred and seventy-five, shall, before registry, and every *British* ship registered before that day shall, on or before that day, be permanently and conspicuously marked with lines of not less than twelve inches breadth, painted longitudinally on each side amidships or as near thereto as it is practicable, and indicating the position of each deck which is above water.

Marking of
deck lines.

The

The upper edge of each of these lines shall be level with the upper side of the deck plank next the water way at the place of marking.

The lines shall be white or yellow on a dark ground, or black on a light ground, provided that—

- (1.) This section shall not apply to ships employed in the coasting trade, or in fishing, nor to pleasure yachts; and
- (2.) If a registered *British* ship is not within a *British* port of registry at any time before the first day of November, one thousand eight hundred and seventy-five, she shall be marked as by this section required within one month after her next return to a *British* port of registry subsequent to that date.

**Statement of
load line.**

6. With respect to the marking of a load line on *British* ships, the following provisions shall have effect:

- (1.) From and after the first day of November, one thousand eight hundred and seventy-five, the owner of every *British* ship shall, before entering his ship outwards from any port in the United Kingdom upon any voyage for which he is required so to enter her, or if that is not practicable, as soon after as may be, mark upon each of her sides amidships, or as near thereto as practicable, in white or yellow on a dark ground, or in black on a light ground, a circular disc, twelve inches in diameter, with a horizontal line, eighteen inches in length, drawn through its centre:
- (2.) The centre of this disc shall indicate the maximum load line in salt water to which the owner intends to load the ship for that voyage:
- (3.) He shall also, upon so entering her, insert in the form of entry delivered to the collector or other principal officer of customs, a statement in writing of the distance in feet and inches between the centre of this disc and the upper edge of each of the lines indicating the position of the ship's decks which is above that centre:
- (4.) If default is made in delivering this statement in the case of any ship, any officer of customs may refuse to enter the ship outwards:
- (5.) The master of the ship shall enter a copy of this statement in the agreement with the crew before it is signed by any member of the crew, and no superintendent of any mercantile marine office shall proceed with the engagement of the crew until this entry is made:

- (6.) The master of the ship shall also enter a copy of this statement in the official log book :
- (7.) When a ship has been marked as by this section required, she shall be kept so marked until her next return to a port of discharge in the United Kingdom.

7. Any owner or master of a *British* ship who neglects to cause his ship to be marked as by this Act required, or to keep her so marked, and any person who conceals, removes, alters, defaces, or obliterates, or suffers any person under his control to conceal, remove, alter, deface, or obliterate, any of the said marks, except in the event of the particulars being thereby denoted being lawfully altered, or except for the purpose of escaping capture by an enemy, shall for each offence incur a penalty not exceeding one hundred pounds.

Penalty for offences in relation to marks on ships.

If any of the marks required by this Act is in any respect inaccurate, so as to be likely to mislead, the owner of the ship shall incur a penalty not exceeding one hundred pounds.

8. Where a claim of compensation, under the Merchant Shipping Act, 1873, is made against the Board of Trade, and liability to pay compensation or the amount thereof is in dispute, proceedings may be taken against the Board of Trade by action against the principal secretary thereof as nominal defendant.

Proceedings may be taken against the Board of Trade by action against the principal Secretary

9. In every contract of service, express or implied, between the owner of a ship and the master or any seaman thereof, and in every instrument of apprenticeship whereby any person is bound to serve as an apprentice on board any ship, there shall be implied, notwithstanding any agreement to the contrary, an obligation on the part of the owner of the ship, to the master, seaman, or apprentice, that the owner of the ship, his agents and servants, shall use all reasonable efforts to ensure the seaworthiness of the ship for the voyage at the commencement thereof, and to keep her in a seaworthy condition during the voyage ;

Liability of ship-owner to crew.

Provided that nothing in this section shall make the owner of a ship liable for the death of or any injury to a master, seaman, or apprentice, belonging to any ship, when caused by the wrongful act, neglect, or default of a seaman or apprentice belonging to the same ship, in any case where he would not otherwise be so liable.

10. This Act may be cited as the Merchant Shipping Act, 1875, and shall be construed one with the Merchant Shipping Act, 1854, and the Acts amending the same, and the said Acts and this Act may be cited collectively as the Merchant Shipping Acts, 1854 to 1875.

Short Title.

11. This Act shall continue in force until the first day of October, one thousand eight hundred and seventy-six.

Duration of Act.

THE

THE FOLLOWING STATUTES OF THE DOMINION RELATING TO MERCHANT SHIPPING AND COGNATE SUBJECTS APPLY TO ONTARIO:

31 VICT., c. 57 ;

An Act for the organization of the Department of Marine and Fisheries of Canada.

31 VICT., c. 58 ;

An Act respecting the Navigation of Canadian Waters.

31 VICT., c. 59 ;

An Act respecting the Inspection of Steamboats and the greater safety of Passengers by them.

32 & 33 VICT., c. 22, secs. 48-57 ;

These sections define and prescribe penalties for malicious injuries to vessels.

32 & 33 VICT., c. 38 ;

An Act respecting Inquiries and Investigations into Shipwrecks and other matters.

32 & 33 VICT., c. 39.

An Act to amend the Act *respecting the Inspection of Steamboats, and for the greater safety of passengers by them.*

33 VICT., c. 39 ;

An Act to make Provision for Discipline on board of Canadian Government vessels.

33 VICT., c. 17 ;

An Act respecting Certificates to Masters and Mates of ships.

33 VICT., c. 18 ;

An Act to amend the Act relating to lighthouses, buoys, and beacons.

36 VICT., c. 8 ;

"The Carriage of Dangerous Goods Act, 1873."

36 VICT., c. 53 ;

An Act to amend the Acts respecting the Inspection of Steamboats.

36 VICT.,

36 VICT., c. 55.

An Act respecting Wreck and Salvage.

36 VICT., c. 56 ;

An Act respecting Deck Loads.

36 VICT., c. 57 ;

An Act to provide for keeping order on board Passenger Steamers.

36 VICT., c. 128 ;

An Act relating to Shipping, and for the Registration, Inspection and Classification thereof.

37 VICT., c. 29 ;

An Act for the removing of obstructions by wreck and like causes in navigable waters of Canada and other purposes relative to wrecks.

37 VICT., c. 30 ;

An Act further to amend the " Act respecting the Inspection of Steamboats."

38 VICT., c. 27 ;

An Act to amend " An Act respecting the Coasting Trade of Canada."

38 VICT., c. 29 ;

An Act to extend certain provisions of " The Seamen's Act, 1873," to vessels employed in navigating the inland waters of Canada.

22 VICT., c. 20—1858.

An Act to provide for taking evidence in suits and proceedings pending before tribunals in Her Majesty's Dominions in places out of the jurisdiction of such tribunals.

WHEREAS it is expedient that facilities be afforded for taking evidence in or in relation to actions, suits, or proceedings pending before tribunals in Her Majesty's Dominions, in places out of the jurisdiction of such tribunals:

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Order for examination of witnesses out of the jurisdiction in relation to any suit pending before any tribunal in Her Majesty's Dominions.

1. Where upon an application for this purpose it is made to appear to any court or judge having authority under this Act, that any court or tribunal of competent jurisdiction in Her Majesty's Dominions has duly authorized, by commission, order, or other process, the obtaining the testimony in or in relation to any action, suit, or proceeding pending in or before such court or tribunal, and within the jurisdiction of such first mentioned court, or of the court to which such judge belongs, or of such judge, it shall be lawful for such court or judge to order the examination before the person or persons appointed, and in manner and form directed by such commission, order, or other process as aforesaid, of such witness or witnesses accordingly; and it shall be lawful for the said court or judge by the same order, or for such court or judge, or any other judge having authority under this Act, by any subsequent order, to command the attendance of any person to be named in such order for the purpose of being examined, or the production of any writing or other documents to be mentioned in such order, and to give all such directions as to time, place, and manner of such examination, and all other matters connected therewith, as may appear reasonable and just, and any such order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made by such court or judge in a cause depending in such court or before such judge.

Penalty on persons giving false evidence.

2. Every person examined as a witness, under any such commission, order, or other process, as aforesaid, who shall upon such examination wilfully and corruptly give any false evidence, shall be deemed and taken to be guilty of perjury.

3. Provided always, that every person whose attendance shall be so ordered shall be entitled to the like conduct money, and payment for expenses and loss of time, as upon attendance at a trial.

Payment of expenses.

4. Provided also, that every person examined under any such commission, order, or other process, as aforesaid, shall have the like right to refuse to answer any questions tending to criminate himself, and other questions which a witness in any cause pending in the court by which, or by a judge whereof, or before the judge by whom the order for examination was made, would be entitled to; that no person shall be compelled to produce, under any such order as aforesaid, any writing or other document that he would not be compellable to produce at the trial of such cause.

Power to persons to refuse to answer questions to criminate himself or to produce document.

5. Her Majesty's Superior Courts of Common Law at *Westminster* and in *Dublin* respectively, the Court of Session in *Scotland*, and any Supreme Court in any of Her Majesty's colonies or possessions abroad, and any judge of any such court, and every judge in any such colony or possession who, by any Order of Her Majesty in Council, may be appointed for this purpose, shall respectively be courts and judges having authority under this Act.

Certain courts and judges to have authority under this Act.

6. It shall be lawful for the Lord Chancellor of *Great Britain*, with the assistance of two of the judges of the Courts of Common Law at *Westminster*, so far as relates to *England*, and for the Lord Chancellor of *Ireland*, with the assistance of two of the judges of the Courts of Common Law at *Dublin*, so far as relates to *Ireland*, and two of the judges of the Court of Session, so far as relates to *Scotland*, and for the chief or only judge of the Supreme Court in any of Her Majesty's colonies or possessions, to frame such rules and orders as shall be necessary or proper for giving effect to the provisions of this Act, and regulating the procedure under the same.

Power to judges to frame rules, &c., for giving effect to provisions of this Act.

22 & 23 VICT., c. 63—1859.

An Act to afford facilities for the more certain ascertainment of the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof.

WHEREAS great improvements in the administration of the law would ensue if facilities were afforded for more certainly ascertaining the law administered in one part of Her Majesty's Dominions when pleaded in the courts of another part thereof;

Be it therefore enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Courts in one part of Her Majesty's Dominions may remit a case for the opinion in law of a Court in any other part thereof.

1. If, in any action depending in any court within Her Majesty's Dominions, it shall be the opinion of such court that it is necessary or expedient for the proper disposal of such action to ascertain the law applicable to the facts of the case as administered in any other part of Her Majesty's Dominions on any point on which the law of such other part of Her Majesty's Dominions is different from that in which the court is situate, it shall be competent to the court in which such action may depend to direct a case to be prepared setting forth the facts as these may be ascertained by verdict of a jury or other mode competent, or may be agreed upon by the parties, or settled by such person or persons as may have been appointed by the court for that purpose in the event of the parties not agreeing, and upon such case being approved of by such court or a judge thereof, they shall settle the questions of law arising out of the same, on which they desire to have the opinion of another court, and shall pronounce an order remitting the same, together with the case, to the court in such other part of Her Majesty's Dominions, being one of the Superior Courts thereof, whose opinion is desired upon the law administered by them as applicable to the facts set forth in such case, and desiring them to pronounce their opinion on the questions submitted to them in the terms of the Act; and it shall be competent to any of the parties to the action to present a petition to the court whose opinion is to be obtained praying such last-mentioned court to hear parties or their counsel, and to pronounce their opinion thereon in terms of this Act, or to pronounce their opinion

opinion without hearing parties or counsel ; and the court to which such petition shall be presented shall, if they think fit, appoint an early day for hearing parties or their counsel on such case, and shall thereafter pronounce their opinion upon the questions of law as administered by them which are submitted to them by the court ; and in order to their pronouncing such opinion, they shall be entitled to take such further procedure thereupon as to them shall seem proper.

2. Upon such opinion being pronounced a copy thereof, certified by an officer of such court, shall be given to each of the parties to the action by whom the same shall be required and shall be deemed and held to contain a correct record of such opinion.

Opinion to be authenticated and certified copy given.

3. It shall be competent to any of the parties to the action after having obtained such certified copy of such opinion, to lodge the same with an officer of the court in which the action may be depending who may have the official charge thereof, together with a notice of motion setting forth that the party will, on a certain day named in such notice, move the court to apply the opinion contained in such certified copy thereof to the facts set forth in the case hereinbefore specified, and the said court shall thereupon apply such case to such facts in the same manner as if the same had been pronounced by such court itself upon a case reserved for opinion of the court or upon a special verdict of a jury, or the said last mentioned court shall, if it thinks fit, when the said opinion has been obtained before trial, order such opinion to be submitted to the jury with the other facts of the case as evidence or conclusive evidence, as the court may think fit, of the foreign law therein stated and the said opinion shall be so submitted to the jury.

Opinion to be applied by the Court making the remit.

4. In the event of an appeal to Her Majesty in Council or to the House of Lords in any such action, it shall be competent to bring under the review of Her Majesty in Council or of the House of Lords, the opinion pronounced as aforesaid by any court whose judgments are reviewable by Her Majesty in Council or the House, and Her Majesty in Council or that House may respectively adopt or reject such opinion of any court whose judgments are respectively reviewable by them as the same shall appear to them to be well founded or not in law.

Her Majesty in Council or House of Lords, on appeal, may adopt or reject opinion.

5. In the construction of this Act the word "Action" shall include every judicial proceeding instituted in any court, civil, criminal or ecclesiastical ; and the words "Superior Court" shall include, in *England*, the Superior Courts of Law at Westminster, the Lord Chancellor, the Lords Justices, the Master of the Rolls, or any Vice Chancellor, the Judge of the Court

Interpretation of terms.

Court of Admiralty, the Judge Ordinary of the Court for Divorce and Matrimonial Causes, and the Judge of the Court of Probate; in *Scotland*, the High Court of Justiciary and the Court of Session acting by either of its divisions; in *Ireland*, the Superior Courts of Law at *Dublin*, the Master of the Rolls, and the Judge of the Admiralty Court; and in any other part of Her Majesty's Dominions, the Superior Courts of Law and Equity therein.

25 VICT., c. 20—1862.

An Act respecting the issue of Writs of Habeas Corpus out of *England* into Her Majesty's Possessions abroad.

“ **W**HEREAS it is expedient that writs of Habeas Corpus should not issue out of *England* into any colony or foreign dominion of the Crown, where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ and to ensure the due execution thereof throughout such colony or foreign dominion.”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Writ not to issue out of *England* to any colony having courts with authority to grant same.

1. No writ of Habeas Corpus shall issue out of *England*, by authority of any judge or court of justice therein, into any colony or foreign dominion of the Crown, where Her Majesty has a lawfully established court or courts of justice having authority to grant and issue the said writ and to insure the due execution thereof throughout such colony or dominion.

Not to affect right of appeal to Her Majesty in Council.

2. Provided that nothing in this Act contained shall affect or interfere with any right of appeal to Her Majesty in Council now by law existing.

26 & 27 VICT., c. 84—1863.

An Act to confirm certain Acts of Colonial Legislatures.

“ WHEREAS doubts are entertained respecting the validity of divers Acts passed by the Legislature of *South Australia*, for the purpose of altering the constitution of the Legislative Council and House of Assembly of the said colony, and respecting the power of Colonial Legislatures to make laws for the above purpose; and it is expedient to remove such doubts:”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. In this Act of Parliament the term “Colonial Legislature” shall mean the authority (other than Her Majesty in Council) competent to make laws for any of Her Majesty's Possessions abroad, except *India*, the *Channel Islands*, and the *Isle of Man*: Interpretation of terms.

The term “Governor” shall mean the officer lawfully administering the Government of any colony.

2. All laws heretofore passed, or purporting to have been passed, by any Colonial Legislature with the object of declaring or altering the constitution of such Legislature, or of any branch thereof, or the mode of appointing or electing the members of the same, shall have, and be deemed to have had, from the date at which the same shall have received the assent of Her Majesty, or of the Governor of the colony on behalf of Her Majesty, the same force and effect for all purposes whatever as if the said Legislature had possessed full powers of enacting laws for the objects aforesaid, and as if all formalities and conditions, by Act of Parliament or otherwise prescribed in respect of the passing of such laws, had been duly observed. Confirmation of certain Acts of Colonial Legislature.

28 & 29 VICT., c. 63—1865.

An Act to remove doubts as to the validity of Colonial Laws.

“ **W**HEREAS doubts have been entertained respecting the validity of divers laws enacted, or purporting to have been enacted, by the Legislatures of certain of Her Majesty's Colonies, and respecting the powers of such Legislatures; and it is expedient that such doubts should be removed :”

Be it hereby enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :”

Interpretation
“ Colony.”

1. The term “ colony ” shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a legislature as hereinafter defined, except the *Channel Islands*, the *Isle of Man*, and such territories as may for the time being be vested in Her Majesty, under or by virtue of any Act of Parliament for the government of *India* :

“ Legislature.”
“ Colonial Legislature ”

The terms “ Legislature ” and “ Colonial Legislature ” shall severally signify the authority (other than the Imperial Parliament or Her Majesty in Council), competent to make laws for any colony :

“ Representative Legislature.”

The term “ Representative Legislature ” shall signify any Colonial Legislature which shall comprise a legislative body of which one-half are elected by the inhabitants of the colony :

“ Colonial Law.”

The term “ Colonial Law ” shall include laws made for any colony, either by such Legislature as aforesaid or by Her Majesty in Council :

An Act of Parliament, or any provision thereof, shall, in construing this Act, be said to extend to any colony when it is made applicable to such colony by the express words or necessary intendment of any Act of Parliament :

“ Governor.”

The term “ Governor ” shall mean the officer lawfully administering the Government of any colony :

“ Letters Patent.”

The term “ Letters Patent ” shall mean letters patent under the great seal of the United Kingdom of *Great Britain* and *Ireland*.

2. Any colonial law, which is or shall be repugnant to the provisions of any Act of Parliament extending to the colony to which such law may relate, or repugnant to any order or regulation made under authority of such Act of Parliament, or having in the colony the force or effect of such Act, shall be read subject to such Act, order, or regulation, and shall, to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

Colonial Law
when void for
repugnancy.

3. No colonial law shall be, or be deemed to have been, void or inoperative on the ground of repugnancy to the law of *England*, unless the same shall be repugnant to the provisions of some such Act of Parliament, order or regulation, as aforesaid.

Colonial Law
when not void
for repug-
nancy.

4. No colonial law, passed with the concurrence of or assented to by the Governor of any colony, or to be hereafter so passed or assented to, shall be, or be deemed to have been, void or inoperative by reason only of any instructions with reference to such law, or the subject thereof, which may have been given to such Governor, by or on behalf of Her Majesty, by any instrument other than the letters patent or instrument authorising such Governor to concur in passing or to assent to laws for the peace, order, and good government of such colony, even though such instructions may be referred to in such letters patent, or last mentioned instrument.

Colonial Law
when not void
for inconsis-
tency with in-
structions.

5. Every Colonial Legislature shall have, and be deemed at all times to have had, full power within its jurisdiction to establish courts of judicature, and to abolish and re-constitute the same, and to alter the constitution thereof, and to make provision for the administration of justice therein, and every Representative Legislature shall, in respect to the colony under its jurisdiction, have, and be deemed at all times to have had, full power to make laws respecting the constitution, powers, and procedure of such Legislature; provided that such laws shall have been passed in such manner and form as may from time to time be required, by any Act of Parliament, letters patent, Order in Council, or colonial law, for the time being in force in the colony.

Colonial Legis-
latures may
establish, &c.,
Courts of Law.

Representa-
tive Legisla-
ture may alter
Constitution.

6. The certificate of the clerk or other proper officer of a legislative body in any colony to the effect that the document to which it is attached is a true copy of any colonial law assented to by the Governor of such colony, or of any bill reserved for the signification of Her Majesty's pleasure by the said Governor, shall be *prima facie* evidence that the document so certified is a true copy of such law or bill, and as the case may be, that such law has been duly and properly passed and assented to, or that such bill has been duly and properly passed and presented to the Governor; and any proclamation, purporting to be published by authority of the Governor,

Certified co-
pies of the
laws to be evi-
dence that
they are pro-
perly passed.

Governor, in any newspaper in the colony to which such law or bill shall relate, and signifying Her Majesty's disallowance of any such colonial law, or Her Majesty's assent to any such reserved bill as aforesaid, shall be *prima facie* evidence of such disallowance or assent.

(Section 7 merely rendered valid certain Acts of the Legislature of South Australia.)

28 & 29 VICT., c. 64—1865.

An Act to remove doubts respecting the validity of certain marriages contracted in Her Majesty's Possessions abroad.

“ **W**HEREAS laws have from time to time been made by the Legislatures of divers of Her Majesty's Possessions abroad, for the purpose of establishing the validity of certain marriages previously contracted therein, but doubts are entertained whether such laws are in all respects effectual for the aforesaid purpose beyond the limits of such possessions :”

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual, and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Colonial laws establishing the validity of marriages to have effect throughout Her Majesty's Dominions.

1. Every law made or to be made by the Legislature of any such possession as aforesaid, for the purpose of establishing the validity of any marriage or marriages contracted in such possession, shall have, and be deemed to have had, from the date of the making of such law, the same force and effect for the purpose aforesaid within all parts of Her Majesty's Dominions as such law may have had, or may hereafter have, within the possession for which the same was made ; provided that nothing in this law contained shall give any effect or validity to any marriage unless at the time of such marriage both of the parties thereto were, according to the law of *England*, competent to contract the same.

Definition of Legislature.

2. In this Act the word “ Legislature ” shall include any authority competent to make laws for any of Her Majesty's possessions abroad, except the Parliament of the United Kingdom and Her Majesty in Council.

(See *B.N.A. Act, 1867, s. 92, ss. 12 ; and see the Provincial Acts relating to the solemnization of marriage.*)

28 & 29 VICT., c. 116—1865.

An Act to explain the Foreign Jurisdiction Act.

Be it declared and enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this Parliament assembled, and by authority of the same, as follows :

1. In the Foreign Jurisdiction Act (that is to say, the Act of the session of the sixth and seventh years of Her Majesty's Reign, chapter ninety-four, to remove doubts as to the exercise of power and jurisdiction by Her Majesty within divers countries and places out of Her Majesty's Dominions, and to render the same more effectual), the term "British Colony," includes, and shall be construed to include, any of Her Majesty's possessions out of the United Kingdom.

Meaning of
British Colony
in 6 & 7 V., c. 94.

2. This Act may be cited as the Foreign Jurisdiction Act Amendment Act, 1865.

Short Title.

29 & 30 VICT., c. 87—1866.

An Act to amend the Foreign Jurisdiction Act.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords, Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. It shall be lawful for Her Majesty in Council, from time to time, if and when it seems fit, by order in Council made under the Foreign Jurisdiction Acts, to assign to or confer on any court in any of Her Majesty's Possessions out of the United Kingdom any jurisdiction, civil or criminal, original or appellate, which Her Majesty in Council might lawfully by any such order assign to or confer on any court in any country or place out of Her Majesty's Dominions within which Her Majesty has power or jurisdiction, and from time

Power for
Queen in Coun-
cil to assign
jurisdiction to
courts in Brit-
ish Dominions
in cases with in
Foreign Juris-
diction Acts.

to

Provinces of
Nova Scotia
and New
Brunswick.

7. The Provinces of *Nova Scotia* and *New Brunswick* shall have the same limits as at the passing of this Act.

Decennial
census.

8. In the general census of the population of *Canada* which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

Declaration of
executive
power in the
Queen.

9. The Executive Government and authority of and over *Canada* is hereby declared to continue and be vested in the Queen.

Application of
provisions re-
ferring to Gov-
ernor General.

10. The provisions of this Act referring to the Governor General extend and apply to the Governor General for the time being of *Canada*, or other the chief Executive Officer or Administrator for the time being carrying on the Government of *Canada* on behalf and in the name of the Queen, by whatever title he is designated.

Constitution of
Privy Council
for *Canada*.

11. There shall be a Council to aid and advise in the Government of *Canada*, to be styled the Queen's Privy Council for *Canada*; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Counsellors, and members thereof may be from time to time removed by the Governor General.

All powers
under Acts to
be exercised
by Governor
General with
advice of Privy
Council or
alone.

12. All powers, authorities, and functions which under any Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, *Canada*, *Nova Scotia*, or *New Brunswick*, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of *Canada*, be vested in and exercisable by the Governor-General, with the advice, or with the advice and consent of, or in conjunction with the Queen's Privy Council for *Canada*, or any members thereof, or by the Governor-General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*) to be abolished or altered by the Parliament of *Canada*.

13. The provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor-General acting by and with the advice of the Queen's Privy Council for *Canada*.

Application of provisions referring to Governor General in Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from time to time to appoint any person or any persons jointly or severally to be his deputy or deputies within any part or parts of *Canada*, and in that capacity to exercise during the pleasure of the Governor General such of the powers, authorities, and functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a deputy or deputies shall not affect the exercise by the Governor General himself of any power, authority, or function.

Power to Her Majesty to authorize Governor General to appoint deputies.

15. The command-in-chief of the land and naval militia, and of all naval and military forces, of and in *Canada*, is hereby declared to continue and be vested in the Queen.

Command of armed forces to continue to be vested in the Queen.

16. Until the Queen otherwise directs the Seat of Government of *Canada* shall be *Ottawa*.

Seat of Government of *Canada*.

IV.—LEGISLATIVE POWER.

17. There shall be one Parliament for *Canada*, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Constitution of Parliament of *Canada*.

18. This sec. is repealed by Imp. Act 38 & 39 V., c. 38, and the following sec. substituted therefor:

Privileges, &c., of Houses.

The privileges, immunities, and powers to be held, enjoyed, and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of *Canada*, but so that any Act of the Parliament of *Canada* defining such privileges, immunities and powers, shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of *Great Britain* and *Ireland* and by the members thereof.

19. The Parliament of *Canada* shall be called together not later than six months after the Union.

First Session of the Parliament of *Canada*.

20. There shall be a session of the Parliament of *Canada* once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one session and its first sitting in the next session.

Yearly Session of the Parliament of *Canada*.

The

The Senate.

Number of
Senators.

21. The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

(*The Senate now includes representatives of the new Provinces of Manitoba, Prince Edward Island, and British Columbia.*)

Representa-
tion of Pro-
vinces in
Senate.

22. In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions—

1. *Ontario* ;

2. *Quebec* ;

3. The Maritime Provinces, *Nova Scotia* and *New Brunswick* ; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows : *Ontario* by twenty-four Senators ; *Quebec* by twenty-four Senators ; and the Maritime Provinces by twenty-four Senators, twelve thereof representing *Nova Scotia*, and twelve thereof representing *New Brunswick*.

In the case of *Quebec* each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four electoral divisions of *Lower Canada* specified in Schedule A. to chapter one of the Consolidated Statutes of *Canada*.

Qualifications
of Senator.

23. The qualification of a Senator shall be as follows :—

(1.) He shall be of the full age of thirty years :

(2.) He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of one of the Provinces of *Upper Canada*, *Lower Canada*, *Canada*, *Nova Scotia*, or *New Brunswick*, before the Union, or of the Parliament of *Canada* after the Union :

(3.) He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised and possessed for his own use and benefit of lands or tenements held in franc-alieu or in rotture, within the Province for which he is appointed, of the value of four thousand dollars, over and above all rents, dues, debts, charges, mortgages,

gages, and incumbrances due or payable out of or charged on or affecting the same :

- (4.) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities :
- (5.) He shall be resident in the Province for which he is appointed :
- (6.) In the case of *Quebec* he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

24. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of *Canada*, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator. Summons of Senator.

25. Such persons shall be first summoned to the Senate as the Queen by Warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union. Summons of first body of Senators.

26. If at any time, on the recommendation of the Governor General, the Queen thinks fit to direct that three or six members be added to the Senate, the Governor General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of *Canada*, add to the Senate accordingly. Addition of Senators in certain cases.

27. In case of such addition being at any time made the Governor-General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the three divisions of *Canada* is represented by twenty-four Senators and no more. Reduction of Senate to normal number.

28. The number of Senators shall not at any time exceed seventy-eight. Maximum number of Senators.

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life. Tenure of place in Senate.

30. A Senator may by writing under his hand addressed to the Governor-General resign his place in the Senate, and thereupon the same shall be vacant. Resignation of place in Senate.

31. The place of a Senator shall become vacant in any of the following cases :— Disqualification of Senators.

- (1.) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate :

(2.)

- (2.) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power :
- (3.) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter :
- (4.) If he is attainted of treason or convicted of felony or of any infamous crime :
- (5.) If he ceases to be qualified in respect of property or of residence ; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the Seat of the Government of *Canada* while holding an office under that Government requiring his presence there.

Summons on vacancy in Senate.

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy.

Questions as to qualifications and vacancies in Senate.

33. If any question arises respecting the qualification of a Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment of Speaker of Senate.

34. The Governor General may from time to time, by instrument under the Great Seal of *Canada*, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

Quorum of Senate.

35. Until the Parliament of *Canada* otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers.

Voting in Senate.

36. Questions arising in the Senate shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

The House of Commons.

Constitution of House of Commons in Canada.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for *Ontario*, sixty-five for *Quebec*, nineteen for *Nova Scotia*, and fifteen for *New Brunswick*.

(The number of members was increased to two hundred by Dom. Act, 35 Vict., c. 13, and the number is now two hundred and

and six, the new Province of Manitoba having four members, and British Columbia and Prince Edward Island six members each, while by Dom. Act, 35 Vict., c. 13, the representation of Ontario was increased to eighty-eight members, of Nova Scotia to twenty-one, and of New Brunswick to sixteen.)

38. The Governor-General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon and call together the House of Commons.

Summoning of Houses of Commons.

39. A Senator shall not be capable of being elected or sitting or voting as a member of the House of Commons.

Senators not to sit in House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick, shall, for the purposes of the election of members to serve in the House of Commons, be divided into electoral districts as follows:—

Electoral districts of the four Provinces.

1.—ONTARIO.

Ontario shall be divided into the counties, ridings of counties, cities, parts of cities, and towns, enumerated in the first schedule to this Act, each whereof shall be an electoral district, each such district as numbered in that schedule being entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

2.—QUEBEC.

Quebec shall be divided into sixty-five electoral districts, composed of the sixty-five electoral divisions into which Lower Canada is at the passing of this Act divided, under chapter two of the Consolidated Statutes of Canada, chapter seventy-five of the Consolidated Statutes for Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such electoral division shall be for the purposes of this Act an electoral district entitled to return one member.

(See Dom. Act, 35 Vict., c. 13.)

3.—NOVA SCOTIA.

Each of the eighteen counties of Nova Scotia shall be an electoral district. The County of Halifax shall be entitled to return two members, and each of the other counties one member.

(See Dom. Act, 35 Vict., c. 13.)

4.—NEW BRUNSWICK.

Each of the fourteen counties into which *New Brunswick* is divided, including the city and County of *St. John*, shall be an electoral district; the city of *St. John* shall also be a separate electoral district. Each of these fifteen electoral districts shall be entitled to return one member.

(See *Dom. Act*, 35 *Vict.*, c. 13.)

Continuance
of existing
Election Laws
until Parlia-
ment of Can-
ada otherwise
provides.

41. Until the Parliament of *Canada* otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of *Canada* otherwise provides, at any election for a member for the House of Commons for the District of *Algoma*, in addition to persons qualified by the law of the Province of *Canada* to vote, every male *British* subject, aged twenty-one years or upwards, being a householder, shall have a vote.

Writs for first
election.

42. For the first election of members to serve in the House of Commons the Governor General shall cause writs to be issued by such person, in such form, and addressed to such returning officers as he thinks fit.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of *Canada*, *Nova Scotia*, or *New Brunswick*; and the returning officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

As to casual
vacancies.

43. In case a vacancy in the representation in the House of Commons of any electoral district happens before the meeting of the Parliament, or after the meeting of the Parliament

liament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant district.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. As to Election of Speaker of House of Commons.

45. In case of a vacancy happening in the office of Speaker by death, resignation, or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker. As to filling up vacancy in office of Speaker.

46. The Speaker shall preside at all meetings of the House of Commons. Speaker to preside.

47. Until the Parliament of *Canada* otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall, during the continuance of such absence of the Speaker, have and execute all the powers, privileges, and duties of Speaker. Provision in case of absence of Speaker.

48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers; and for that purpose the Speaker shall be reckoned as a member. Quorum of House of Commons.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote. Voting in House of Commons.

50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer. Duration of House of Commons.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be re-adjusted by such authority, in such manner, and from such time, as the Parliament of *Canada* from time to time provides, subject and according to the following rules:— Decennial Re-adjustment of Representation.

(1.) *Quebec* shall have the fixed number of sixty-five members:

(2.)

- (2.) There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of *Quebec* (so ascertained) :
- (3.) In the computation of the number of members for a Province a fractional part not exceeding one half of the whole number requisite for entitling the Province to a member shall be disregarded ; but a fractional part exceeding one half of that number shall be equivalent to the whole number :
- (4.) On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of *Canada* at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one twentieth part or upwards :
- (5.) Such re-adjustment shall not take effect until the termination of the then existing Parliament.

(*Such a re-adjustment was made by Dom. Act, 35 Vict., c. 13, after the census of 1871.*)

Increase of
number of
House of Com-
mons.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of *Canada*, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes ; Royal Assent.

Appropriation
and tax bills.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Recommendation
of money
votes.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor General in the session in which such vote, resolution, address, or bill is proposed.

Royal assent
to bills, &c

55. Where a bill passed by the Houses of Parliament is presented to the Governor General for the Queen's assent, he shall declare, according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either

either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

56. Where the Governor General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of Her Majesty's principal Secretaries of State, and if the Queen in Council within two years after receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State on which the Act was received by him) being signified by the Governor General, by speech or message to each of the Houses of the Parliament or by proclamation, shall annul the Act from and after the day of such signification.

Disallowance by Order in Council of Act assented to by Governor General.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor General for the Queen's assent, the Governor General signifies, by speech or message to each of the Houses of the Parliament or by proclamation; that it has received the assent of the Queen in Council.

Signification of Queen's pleasure on bill reserved.

An entry of every such speech, message, or proclamation, shall be made in the journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the records of *Canada*.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an officer, styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of *Canada*.

Appointment of Lieutenant Governors of Provinces.

59. A Lieutenant Governor shall hold office during the pleasure of the Governor General; but any Lieutenant Governor appointed after the commencement of the first session of the Parliament of *Canada* shall not be removeable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and, if not, then within one week after the commencement of the next session of the Parliament.

Tenure of office of Lieutenant Governor.

60. The salaries of the Lieutenant Governor shall be fixed and provided by the Parliament of *Canada*.

Salaries of Lieutenant Governors.

Oaths, &c., of
Lieutenant
Governor.

61. Every Lieutenant Governor shall, before assuming the duties of his office, make and subscribe before the Governor General or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor General.

Application of
provisions re-
ferring to
Lieutenant
Governor.

62. The provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the time being of each Province or other the chief executive officer or administrator for the time being carrying on the Government of the Province, by whatever title he is designated.

Appointment
of Executive
officers for
Ontario and
Quebec.

63. The Executive Council of *Ontario* and of *Quebec* shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance of the following officers, namely,—the Attorney-General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, with in *Quebec*, the Speaker of the Legislative Council and the Solicitor General.

Executive Go-
vernment of
Nova Scotia
and New
Brunswick.

64. The Constitution of the executive authority in each of the Provinces of *Nova Scotia* and *New Brunswick* shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

Powers to be
exercised by
Lieutenant
Governor of
Ontario or
Quebec with
advice or
alone.

65. All powers, authorities, and functions which under Act of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*, or of the Legislature of *Upper Canada*, *Lower Canada*, or *Canada*, were or are before or at the union vested in or exerciseable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the union in relation to the Government of *Ontario* and *Quebec* respectively, be vested in and shall or may be exercised by the Lieutenant Governor of *Ontario* and *Quebec* respectively, with the advice, or with the advice and consent of, or in conjunction with the respective Executive Councils, or any members thereof, or by the Lieutensnt Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of *Great Britain*, or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*), to be abolished or altered by the respective Legislatures of *Ontario* and *Quebec*.

66. The provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the advice of the Executive Council thereof.

Application of provisions referring to Lieutenant Governor in Council.

67. The Governor General in Council may from time to time appoint an administrator to execute the office and functions of Lieutenant Governor during his absence, illness, or other inability.

Administration in absence, &c., of Lieutenant Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the Seats of Government of the Provinces shall be as follows, namely,—of *Ontario*, the city of *Toronto*; of *Quebec*, the city of *Quebec*; of *Nova Scotia*, the city of *Halifax*; and of *New Brunswick*, the city of *Fredericton*.

Seats of Provincial Governments.

Legislative Power.

1.—ONTARIO.

69. There shall be a Legislature for *Ontario* consisting of the Lieutenant Governor and of one House, styled the Legislative Assembly of *Ontario*.

Legislature for Ontario.

70. The Legislative Assembly of *Ontario* shall be composed of eighty-two members, to be elected to represent the eighty-two electoral districts set forth in the first schedule to this Act.

Electoral districts.

(The number of members has been increased to eighty-eight by Ontario Act, 38 Vict., c. 2.)

2.—QUEBEC.

71. There shall be a Legislature for *Quebec* consisting of the Lieutenant Governor and of two Houses, styled the Legislative Council of *Quebec* and the Legislative Assembly of *Quebec*.

Legislature for Quebec.

72. The Legislative Council of *Quebec* shall be composed of twenty-four members, to be appointed by the Lieutenant Governor in the Queen's name, by instrument under the Great Seal of *Quebec*, one being appointed to represent each of the twenty-four electoral divisions of *Lower Canada* in this Act referred to, and each holding office for the term of his life, unless the Legislature of *Quebec* otherwise provides under the provisions of this Act.

Constitution of Legislative Council.

73. The qualifications of the Legislative Councillors of *Quebec* shall be the same as those of the Senators of *Quebec*.

Qualification of Legislative Councillors.

Resignation,
disqualifica-
tion, &c.

74. The place of a Legislative Councillor of *Quebec* shall become vacant in the cases, *mutatis mutandis*, in which the place of Senator becomes vacant.

Vacancies.

75. When a vacancy happens in the Legislative Council of *Quebec* by resignation, death, or otherwise, the Lieutenant Governor, in the Queen's name, by instrument under the Great Seal of *Quebec*, shall appoint a fit and qualified person to fill the vacancy.

Questions as to
vacancies, &c.

76. If any question arises respecting the qualification of a Legislative Councillor of *Quebec*, or a vacancy in the Legislative Council of *Quebec*, the same shall be heard and determined by the Legislative Council.

Speaker of
Legislative
Council.

77. The Lieutenant Governor may from time to time, by instrument under the Great Seal of *Quebec*, appoint a member of the Legislative Council of *Quebec* to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum of
Legislative
Council.

78. Until the Legislature of *Quebec* otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in
Legislative
Council.

79. Questions arising in the Legislative Council of *Quebec* shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution
of Legislative
Assembly of
Quebec.

80. The Legislative Assembly of *Quebec* shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of *Lower Canada* in this Act referred to, subject to alteration thereof by the Legislature of *Quebec*: Provided that it shall not be lawful to present to the Lieutenant Governor of *Quebec* for assent any bill for altering the limits of any of the electoral divisions or districts mentioned in the second schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those electoral divisions or districts, and the assent shall not be given to such bill unless an address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

First Session
of Legisla-
tures.

81. The Legislatures of *Ontario* and *Quebec* respectively shall be called together not later than six months after the union.

82. The Lieutenant Governor of *Ontario* and of *Quebec* shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province. Summoning of
Legislative
Assemblies.

83. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, a person accepting or holding in *Ontario* or in *Quebec* any office, commission, or employment permanent or temporary, at the nomination of the Lieutenant Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this Section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the Offices of Attorney General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and in *Quebec* Solicitor General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office. Restriction
on election of
holders of
offices.

(Ont. Acts 32 V., c. 4, and 35 V., c. 5, were passed with the view of further securing the independence of the Legislative Assembly.)

84. Until the Legislatures of *Ontario* and *Quebec* respectively otherwise provide, all Laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of *Canada*, the qualifications or disqualifications of voters, the oaths to be taken by voters, the returning officers, their powers and duties, the proceedings at elections, the periods during which such elections, may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to election of members to serve in the respective Legislative Assemblies of *Ontario* and *Quebec*. Continuance
of existing
election laws.

Provided that until the Legislature of *Ontario* otherwise provides, at any election for a member of the Legislative Assembly of *Ontario* for the District of *Algoma*, in addition to persons qualified by the Law of the Province of *Canada* to vote, every male *British* subject, aged twenty-one years or upwards, being a householder, shall have a vote.

(See Provincial Acts respecting Elections.)

Duration of
Legislative
Assemblies;

85. Every Legislative Assembly of *Ontario* and every Legislative Assembly of *Quebec* shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of *Ontario* or the Legislative Assembly of *Quebec* being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

Yearly Session
of Legislature.

86. There shall be a session of the Legislature of *Ontario* and of that of *Quebec* once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one Session and its first sitting in the next session.

Speaker,
Quorum, &c.

87. The following provisions of this Act respecting the House of Commons of *Canada* shall extend and apply to the Legislative Assemblies of *Ontario* and *Quebec*, that is to say,—the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions
of Legislatures
of Nova Scotia
and New
Brunswick.

88. The Constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of *New Brunswick* existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections.

89. Each of the Lieutenant Governors of *Ontario*, *Quebec*, and *Nova Scotia*, shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such returning officer as the Governor General directs, and so that the first election of member of Assembly for any electoral district or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of *Canada* for that electoral district.

6.—THE FOUR PROVINCES.

Application to
Legislatures of
provisions res-
pecting money
votes, &c.

90. The following provisions of this Act respecting the Parliament of *Canada*, namely,—the provisions relating to appropriation and tax bills, the recommendation of money votes,

votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant Governor of the Province for the Governor General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for *Canada*.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of *Canada*, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative authority of the Parliament of *Canada* extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

Legislative
authority of
Parliament of
Canada.

1. The public debt and property.
2. The regulation of trade and commerce.
3. The raising of money by any mode or system of taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The census and statistics.
7. Militia, military and naval service, and defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of *Canada*.
9. Beacons, buoys, lighthouses, and Sable Island.
10. Navigation and shipping.
11. Quarantine and the establishment and maintenance of marine hospitals.

12. Sea Coast and inland fisheries.
13. Ferries between a Province and any *British* or foreign country or between two Provinces.
14. Currency and coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings banks.
17. Weights and measures.
18. Bills of exchange and promissory notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and aliens.
26. Marriage and divorce.
27. The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.
28. The establishment, maintenance, and management of penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

Subjects of
exclusive Pro-
vincial Legis-
lation.

1. The amendment from time to time, notwithstanding anything in this Act, of the constitution of the Province, except as regards the office of Lieutenant Governor.
2. Direct taxation within the Province in order to the raising of a revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the public lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for Provincial, local, or municipal purposes.
10. Local works and undertakings other than such as are of the following classes :—
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province :
 - b. Lines of steam ships between the Province and any *British* or foreign country :
 - c.

- c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of *Canada* to be for the general advantage of *Canada* or for the advantage of two or more of the Provinces.
11. The incorporation of companies with Provincial objects.
 12. The solemnization of marriage in the Province.
 13. Property and civil rights in the Province.
 14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.
 15. The imposition of punishment by fine, penalty, or imprisonment, for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
 16. Generally all matters of a merely local or private nature in the Province.

Education.

Legislation
respecting
education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :

- (1.) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the union :
- (2.) All the powers, privileges, and duties at the union by law conferred and imposed in *Upper Canada* on the separate schools and school trustees of the Queen's Roman catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's protestant and Roman catholic subjects in *Quebec* :
- (3.) Where in any Province a system of separate or dissentient schools exists by law at the union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any Provincial authority affecting any right

right or privilege of the protestant or Roman catholic minority of the Queen's subjects in relation to education :

- (4.) In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of *Canada* may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of *Canada* may make provision for the uniformity of all or any of the laws relative to property and civil rights in *Ontario, Nova Scotia, and New Brunswick*, and of the procedure of all or any of the courts in those three Provinces, and from and after the passing of any Act in that behalf the power of the Parliament of *Canada* to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted ; but any Act of the Parliament of *Canada* making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Legislation for uniformity of Laws in three Provinces.

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to agriculture in the Province, and to immigration into the Province ; and it is hereby declared that the Parliament of *Canada* may from time to time make laws in relation to agriculture in all or any of the Provinces, and to immigration into all or any of the Provinces ; and any law of the Legislature of a Province relative to agriculture or to immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of *Canada*.

Concurrent powers of Legislation respecting Agriculture, &c.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in *Nova Scotia* and *New Brunswick*.

Appointment of Judges.

c. Such works as, although wholly the Province, are before or tion declared by the Parliament for the general advantage or advantage of two or more

11. The incorporation of companies.

12. The solemnization of marriages.

13. Property and civil rights.

14. The administration of the constitution of Provincial Courts, and those courts

15. The imprisonment made of the

16. General

withstanding provide for the constitution of a General Court establishment of any additional administration of the laws of

REVENUES; DEBTS; ASSETS; TAXATION.

Legislation respecting education.

All duties and revenues over which the respective Legislatures of *Canada*, *Nova Scotia*, and *New Brunswick* are and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one consolidated revenue fund, to be appropriated for the public service of *Canada* in the manner and subject to the charges in this Act provided.

Expenses of collection, &c.

103. The consolidated revenue fund of *Canada* shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of Provincial public debts.

104. The annual interest of the public debts of the several Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* at the union shall form the second charge on the consolidated revenue fund of *Canada*.

altered by the Parliament of Canada, the Salary of Governor General shall be ten thousand pounds Sterling per annum, to be paid out of the consolidated revenue fund of the United Kingdom of Great Britain and Ireland, and shall form the third charge thereon.

<p>payments by this Act charged of <i>Canada</i>, the same shall of <i>Canada</i> for the public</p>	<p>Appropriation from time to time.</p>
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ances, and securities at the time of the
will be the property of the amount of
on.

Province, Transfer of
shall be the property in
schedule.

lands, and royalties belonging to the Crown in Canada, Nova Scotia, and New Brunswick, and all sums then due or payable for lands, minerals, or royalties, shall belong to the Crown in the provinces of Ontario, Quebec, Nova Scotia, and New Brunswick, in which the same are situate or arise, and to any other trusts existing in respect thereof, and to any other person or persons, other than that of the Province in the same.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province. Assets connected with Provincial debts.

111. *Canada shall be liable for the debts and liabilities of each Province existing at the union.* Canada to be liable for Provincial debts.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon.

113. The assets enumerated in the fourth schedule to this Act belonging at the union to the Province of Canada shall be the property of Ontario and Quebec conjointly. Assets of Ontario and Quebec.

114. *Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the union eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon.*

Selection of
Judges in
Ontario, &c.

97. Until the laws relative to property and civil rights in *Ontario, Nova Scotia, and New Brunswick*, and the procedure of the courts in those Provinces, are made uniform, the Judges of the courts of those Provinces appointed by the Governor General shall be selected from the respective bars of those Provinces.

Selection of
Judges in
Quebec.

98. The Judges of the courts of *Quebec* shall be selected from the bar of that Province.

Tenure of
office of Judges
of Superior
Courts.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Salaries, &c.,
of Judges.

100. The salaries, allowances, and pensions of the Judges of the Superior, District, and County Courts (except the Courts of Probate in *Nova Scotia* and *New Brunswick*,) and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of *Canada*.

General court
of appeal, &c.;

101. The Parliament of *Canada* may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a General Court of Appeal for *Canada*, and for the establishment of any additional courts for the better administration of the laws of *Canada*.

VIII.—REVENUES ; DEBTS ; ASSETS ; TAXATION.

Creation of
consolidated
revenue fund.

102. All duties and revenues over which the respective Legislatures of *Canada, Nova Scotia, and New Brunswick* before and at the union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one consolidated revenue fund, to be appropriated for the public service of *Canada* in the manner and subject to the charges in this Act provided.

Expenses of
collection, &c.

103. The consolidated revenue fund of *Canada* shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of Pro-
vincial public
debts.

104. The annual interest of the public debts of the several Provinces of *Canada, Nova Scotia, and New Brunswick* at the union shall form the second charge on the consolidated revenue fund of *Canada*.

105. Unless altered by the Parliament of *Canada*, the salary of the Governor General shall be ten thousand pounds sterling money of the United Kingdom of *Great Britain* and *Ireland*, payable out of the consolidated revenue fund of *Canada*, and the same shall form the third charge thereon. Salary of Governor General.

106. Subject to the several payments by this Act charged on the consolidated revenue fund of *Canada*, the same shall be appropriated by the Parliament of *Canada* for the public service. Appropriation from time to time.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the union, except as in this Act mentioned, shall be the property of *Canada*, and shall be taken in reduction of the amount of the respective debts of the Provinces at the union. Transfer of stocks, &c.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of *Canada*. Transfer of property in schedule.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* at the union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick*, in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same. Property in lands, mines, &c.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province. Assets connected with Provincial debts.

111. *Canada* shall be liable for the debts and liabilities of each Province existing at the union. Canada to be liable for Provincial debts.

112. *Ontario* and *Quebec* conjointly shall be liable to *Canada* for the amount (if any) by which the debt of the Province of *Canada* exceeds at the union sixty-two million five hundred thousand dollars, and shall be charged with interest at the rate of five per centum per annum thereon. Debts of Ontario and Quebec.

113. The assets enumerated in the fourth schedule to this Act belonging at the union to the Province of *Canada* shall be the property of *Ontario* and *Quebec* conjointly. Assets of Ontario and Quebec.

114. *Nova Scotia* shall be liable to *Canada* for the amount (if any) by which its public debt exceeds at the union eight million dollars, and shall be charged with interest at the rate of five per centum per annum thereon. Debt of Nova Scotia.

Debt of New
Brunswick.

115. *New Brunswick* shall be liable to *Canada* for the amount (if any) by which its public debt exceeds at the union seven million dollars, and shall be charged with interest at the rate of five *per centum per annum* thereon.

Payment of
interest to
Nova Scotia
and *New*
Brunswick.

116. In case the public debts of *Nova Scotia* and *New Brunswick* do not at the Union amount to eight million and seven million dollars respectively, they shall respectively receive by half-yearly payments in advance from the Government of *Canada* interest at five *per centum per annum* on the difference between the actual amounts of their respective debts and such stipulated amounts.

Provincial
public pro-
perty.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of *Canada* to assume any lands or public property required for fortifications or for the defence of the country.

Grants to
Provinces.

118. The following sums shall be paid yearly by *Canada* to the several Provinces for the support of their Governments and Legislatures :

	Dollars.
Ontario - - - - -	Eighty thousand.
Quebec - - - - -	Seventy thousand.
Nova Scotia - - - - -	Sixty thousand.
New Brunswick - - - - -	Fifty thousand.

Two hundred and sixty thousand ;
and an annual grant in aid of each Province shall be made, equal to eighty cents *per head* of the population as ascertained by the census of one thousand eight hundred and sixty-one, and in the case of *Nova Scotia* and *New Brunswick*, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grant shall be in full settlement of all future demands on *Canada*, and shall be paid half-yearly in advance to each Province ; but the Government of *Canada* shall deduct from such grants, as against any Province, all sums chargeable as interest on the public debt of that Province in excess of the several amounts stipulated in this Act.

Further grant
to *New Bruns-*
wick.

119. *New Brunswick* shall receive by half-yearly payments in advance from *Canada* for the period of ten years from the union an additional allowance of sixty-three thousand dollars *per annum* ; but as long as the public debt of that Province remains under seven million dollars, a deduction equal to the interest at five *per centum per annum* on such deficiency shall be made from that allowance of sixty-three thousand dollars.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* respectively, and assumed by *Canada*, shall, until the Parliament of *Canada* otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor General in Council.

Form of payments.

121. All articles of the growth, produce, or manufacture, of any one of the Provinces shall, from and after the union, be admitted free into each of the other Provinces.

Canadian manufactures, &c.

122. The customs and excise laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of *Canada*.

Continuance of customs and excise laws.

123. Where customs duties are, at the union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares, and merchandises may, from and after the union, be imported from one of those Provinces into the other of them on proof of payment of the customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of customs duty as is leviable thereon in the Province of importation.

Exportation and importation as between two Provinces.

124. Nothing in this Act shall affect the right of *New Brunswick* to levy the lumber dues provided in chapter fifteen of title three of the revised statutes of *New Brunswick*, or in any Act amending that Act before or after the union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than *New Brunswick* shall not be subject to such dues.

Lumber dues in *New Brunswick*.

125. No lands or property belonging to *Canada* or any Province shall be liable to taxation.

Exemption of public lands, &c.

126. Such portions of the duties and revenues over which the respective Legislatures of *Canada*, *Nova Scotia*, and *New Brunswick* had before the union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one consolidated revenue fund to be appropriated for the public service of the Province.

Provincial consolidated revenue fund.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being at the passing of this Act a member of the Legislative Council of *Canada*, *Nova Scotia*, or

As to Legislative councillors of Provinces becoming senators.

or *New Brunswick*, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand addressed to the Governor General of the Province of *Canada* or to the Lieutenant Governor of *Nova Scotia* or *New Brunswick* (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of *Nova Scotia* or *New Brunswick*, accepts a place in the Senate shall thereby vacate his seat in such Legislative Council.

Oath of allegiance, &c.

128. Every member of the Senate or House of Commons of *Canada* shall, before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein take and subscribe before the Lieutenant Governor of the Province or some person authorized by him, the oath of allegiance contained in the fifth schedule to this Act; and every member of the Senate of *Canada* and every member of the Legislative Council of *Quebec* shall also, before taking his seat therein, take and subscribe before the Governor General, or some person authorized by him, the declaration of qualification contained in the same schedule.

Continuance of existing laws, courts, officers, &c.

129. Except as otherwise provided by this Act, all laws in force in *Canada*, *Nova Scotia*, or *New Brunswick*, at the union, and all courts of civil and criminal jurisdiction, and all legal commissions, powers, and authorities, and all officers, judicial, administrative, and ministerial, existing therein at the union, shall continue in *Ontario*, *Quebec*, *Nova Scotia*, and *New Brunswick* respectively, as if the union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of *Great Britain* or of the Parliament of the United Kingdom of *Great Britain* and *Ireland*), to be repealed, abolished, or altered by the Parliament of *Canada*, or by the Legislature of the respective Province, according to the authority of the Parliament of that Legislature under this Act.

Transfer of officers to Canada.

130. Until the Parliament of *Canada* otherwise provides, the officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of *Canada*, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities, and penalties as if the union had not been made.

Appointment of new officers.

131. Until the Parliament of *Canada* otherwise provides, the Governor General in Council may from time to time appoint

appoint such officers as the Governor General in Council deems necessary or proper for the effectual execution of this Act.

132. The Parliament and Government of *Canada* shall have all powers necessary or proper for performing the obligations of *Canada* or of any Province thereof, as part of the *British Empire*, towards foreign countries, arising under treaties between the Empire and such foreign countries. Treaty obligations.

133. Either the *English* or the *French* language may be used by any person in the debates of the Houses of the Parliament of *Canada* and of the Houses of the Legislature of *Quebec*; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any court of *Canada* established under this Act, and in or from all or any of the courts of *Quebec*. Use of English and French languages.

The Acts of the Parliament of *Canada* and of the Legislature of *Quebec* shall be printed and published in both those languages.

Ontario and Quebec.

134. Until the Legislature of *Ontario* or of *Quebec* otherwise provides, the Lieutenant Governors of *Ontario* and *Quebec* may each appoint under the great seal of the Province the following officers, to hold office during pleasure, that is to say, —the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of *Quebec* the Solicitor General, and may, by order of the Lieutenant Governor in Council, from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof, and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof. Appointment of executive officers for Ontario and Quebec.

135. Until the Legislature of *Ontario* or *Quebec* otherwise provides, all rights, powers, duties, functions, responsibilities, or authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of *Canada*, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any law, statute or ordinance of *Upper Canada*, *Lower Canada*, Powers, duties, &c., of executive officers.

OR

or *Canada*, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the Law of the Province of *Canada*, as well as those of the Commissioner of Public Works.

Great seals.

136. Until altered by the Lieutenant Governor in Council, the Great Seals of *Ontario* and *Quebec* respectively shall be the same, or of the same design, as those used in the Provinces of *Upper Canada* and *Lower Canada* respectively before their union as the Province of *Canada*.

Construction of temporary Acts.

137. The words "and from thence to the end of the then next" ensuing session of the Legislature," or words to the same effect, used in any temporary Act of the Province of *Canada* not expired before the union, shall be construed to extend and apply to the next session of the Parliament of *Canada*, if the subject matter of the Act is within the powers of the same, as defined by this Act, or to the next sessions of the Legislatures of *Ontario* and *Quebec* respectively, if the subject matter of the Act is within the powers of the same as defined by this Act.

As to errors in names.

138. From and after the union the use of the words "*Upper Canada*" instead of "*Ontario*," or "*Lower Canada*" instead of "*Quebec*," in any deed, writ, process, pleading, document, matter, or thing, shall not invalidate the same.

As to issue of proclamations before Union, to commence after Union.

139. Any proclamation under the Great Seal of the Province of *Canada* issued before the union to take effect at a time which is subsequent to the union, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the union had not been made.

As to issue of proclamations after Union.

140. Any proclamation which is authorized by any Act of the Legislature of the Province of *Canada*, to be issued under the Great Seal of the Province of *Canada*, whether relating to that Province, or to *Upper Canada*, or to *Lower Canada*, and which is not issued before the union, may be issued by the Lieutenant Governor of *Ontario* or of *Quebec*, as its subject matter requires, under the Great Seal thereof; and from and after the issue of such proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in *Ontario* or *Quebec* as if the union had not been made.

Penitentiary

141. The Penitentiary of the Province of *Canada* shall, until the Parliament of *Canada* otherwise provides, be and continue the Penitentiary of *Ontario* and of *Quebec*.

142. The division and adjustment of the debts, credits, liabilities, properties, and assets of *Upper Canada* and *Lower Canada* shall be referred to the arbitrament of three arbitrators, one chosen by the Government of *Ontario*, one by the Government of *Quebec*, and one by the Government of *Canada*; and the selection of the arbitrators shall not be made until the Parliament of *Canada* and the Legislatures of *Ontario* and *Quebec* have met; and the arbitrator chosen by the Government of *Canada* shall not be a resident either in *Ontario* or in *Quebec*. Arbitration respecting debts, &c.

143. The Governor General in Council may from time to time order that such and so many of the records, books, and documents of *Canada* as he thinks fit shall be appropriated and delivered either to *Ontario* or to *Quebec*, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof, shall be admitted as evidence. Division of records.

144. The Lieutenant Governor of *Quebec* may from time to time, by proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of *Quebec* in which townships are not then already constituted, and fix the metes and bounds thereof. Constitution of townships in Quebec.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of *Canada*, *Nova Scotia*, and *New Brunswick* have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the union of *British North America*, and to the assent thereto of *Nova Scotia* and *New Brunswick*, and have consequently agreed that provision should be made for its immediate construction by the Government of *Canada*: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of *Canada* to provide for the commencement within six months after the union, of a railway connecting the River St. Lawrence with city of *Halifax* in *Nova Scotia*, and for the construction thereof without intermission, and the completion thereof with all practicable speed. Duty of Government and Parliament of Canada to make railway herein described.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on addresses from the Houses of Parliament of *Canada*, and from the Houses of the Parliament of *Canada*, and from the Houses of the respective Legislatures of the Colonies or Provinces of *Newfoundland*, *Prince Edward Island*, and *British Columbia*, Power to admit Newfoundland, &c., into the Union.

Columbia, to admit those Colonies or Provinces, or any of them, into the union, and on address from the Houses of the Parliament of *Canada* to admit *Rupert's Land* and the North-western territory, or either of them, into the union, on such terms and conditions in each case as are in the addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as they had been enacted by the Parliament of the United Kingdom of *Great Britain and Ireland*.

As to representation of Newfoundland and Prince Edward Island in Senate.

147. In case of the admission of *Newfoundland* and *Prince Edward Island*, or either of them, each shall be entitled to a representation in the Senate of *Canada* of four members, and (notwithstanding anything in this Act) in case of the admission of *Newfoundland* the normal number of Senators shall be seventy-six and their maximum number shall be eighty-two; but *Prince Edward Island* when admitted shall be deemed to be comprised in the third of the three divisions into which *Canada* is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of *Prince Edward Island*, whether *Newfoundland* is admitted or not, the representation of *Nova Scotia* and *New Brunswick* in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

SCHEDULES.

THE FIRST SCHEDULE.

Electoral Districts of Ontario.

(The division of the Province into electoral districts has been altered by subsequent Dominion and Provincial Legislation.)

A.

EXISTING ELECTORAL DIVISIONS.

COUNTIES.

- | | |
|---------------|-------------------|
| 1. Prescott. | 6. Carleton. |
| 2. Glengarry. | 7. Prince Edward. |
| 3. Stormont. | 8. Halton. |
| 4. Dundas. | 9. Essex. |
| 5. Russell. | |

RIDINGS

RIDINGS OF COUNTIES.

10. North Riding of Lanark.
11. South Riding of Lanark.
12. North Riding of Leeds and North Riding of Grenville.
13. South Riding of Leeds.
14. South Riding of Grenville.
15. East Riding of Northumberland.
16. West Riding of Northumberland (excepting therefrom the Township of South Monaghan.)
17. East Riding of Durham.
18. West Riding of Durham.
19. North Riding of Ontario.
20. South Riding of Ontario.
21. East Riding of York.
22. West Riding of York.
23. North Riding of York.
24. North Riding of Wentworth.
25. South Riding of Wentworth.
26. East Riding of Elgin.
27. West Riding of Elgin.
28. North Riding of Waterloo.
29. South Riding of Waterloo.
30. North Riding of Brant.
31. South Riding of Brant.
32. North Riding of Oxford.
33. South Riding of Oxford.
34. East Riding of Middlesex.

CITIES, PARTS OF CITIES AND TOWNS.

35. West Toronto.
 36. East Toronto.
 37. Hamilton.
 38. Ottawa.
 39. Kingston.
 40. London.
 41. Town of Brockville, with the Township of Elizabethtown thereto attached.
 42. Town of Niagara, with the Township of Niagara thereto attached.
 43. Town of Cornwall, with the Township of Cornwall thereto attached.
-

B.

NEW ELECTORAL DIVISIONS.

44. The Provisional Judicial District of ALGOMA.

The County of BRUCE, divided into two Ridings, to be called respectively the North and South Ridings :—

45. The North Riding of Bruce to consist of the Townships of Bury, Lindsay, Eastnor, Albemarle, Amable, Arran, Bruce, Elderslie, and Saugeen, and the Village of Southampton.

46. The South Riding of Bruce to consist of the Townships of Kincardine (including the Village of Kincardine), Greenock, Brant, Huron, Kinloss, Culross, and Carrick.

The County of HURON, divided into two Ridings, to be called respectively the North and South Ridings :

47. The North Riding to consist of the Townships of Ashfield, Wawanosh, Turnberry, Howick, Morris, Grey, Colborne, Hullett, including the Village of Clinton, and McKillop.

48. The South Riding to consist of the Town of Goderich, and the Township of Goderich, Tuckersmith, Stanley, Hay, Usborne, and Stephen.

The County of MIDDLESEX, divided into three Ridings, to be called respectively the North, West, and East Ridings :—

49. The North Riding to consist of the Townships of McGillivray and Biddulph (taken from the County of Huron), and Williams East, Williams West, Adelaide, and Lobo.

50. The West Riding to consist of the Townships of Delaware, Carradoc, Metcalfe, Mossa and Ekfrid, and the Village of Strathroy.

[The East Riding to consist of the Townships now embraced therein, and be bounded as it is at present.]

51. The County of LAMBTON to consist of the Townships of Bosanquet, Warwick, Plympton, Sarnia, Moore, Enniskillen, and Brooke, and the Town of Sarnia.

52. The County of **KENT** to consist of the Townships of Chatham, Dover, East Tilbury, Romney, Raleigh, and Harwich, and the Town of Chatham.
53. The County of **BOTHWELL** to consist of the Townships of Sombra, Dawn, and Euphemia (taken from the County of Lambton), and the Townships of Zone, Camden with the Gore thereof, Orford, and Howard (taken from the County of Kent).

The County of **GREY** divided into two Ridings to be called respectively the South and North Ridings :—

54. The South Riding to consist of the Townships of Bentinck, Glenelg, Artemesia, Osprey, Normanby, Egremont, Proton, and Melancthon.
55. The North Riding to consist of the Townships of Collingwood, Euphrasia, Holland, Saint-Vincent, Sydenham, Sullivan, Derby, and Keppel, Sarawak and Brooke, and the Town of Owen Sound.

The County of **PERTH** divided into two Ridings, to be called respectively the South and North Ridings :—

56. The North Riding to consist of the Townships of Wallace, Elma, Logan, Ellice, Mornington, and North Easthope, and the Town of Stratford.
57. The South Riding to consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Hibbert, and the Villages of Mitchell and Ste. Marys.

The County of **WELLINGTON** divided into three Ridings, to be called respectively North, South and Centre Ridings :—

58. The North Riding to consist of the Townships of Amaranth, Arthur, Luther, Minto, Maryborough, Peel, and the Village of Mount Forest.
59. The Centre Riding to consist of the Townships of Garafraxa, Erin, Eramosa, Nichol, and Pilkington, and the Villages of Fergus and Elora.
60. The South Riding to consist of the Town of Guelph, and the Townships of Guelph and Puslinch.

The County of NORFOLK, divided into two Ridings, to be called respectively the South and North Ridings:—

61. The South Riding to consist of the Townships of Charlotteville, Houghton, Walsingham, and Woodhouse, and with the Gore thereof.
62. The North Riding to consist of the Townships of Middleton, Townsend, and Windham, and the Town of Simcoe.
63. The County of HALDIMAND to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Raynham, Walpole, and Dunn.
64. The County of MONCK to consist of the Townships of Canborough and Moulton, and Sherbrooke, and the Village of Dunnville (taken from the County of Haldimand), the Townships of Caister and Gainsborough (taken from the County of Lincoln), and the Townships of Pelham and Wainfleet (taken from the County of Welland.)
65. The County of LINCOLN to consist of the Townships of Clinton, Grantham, Grimsby, and Louth, and the Town of St. Catharines.
66. The County of WELLAND to consist of the Townships of Bertie, Crowland, Humberstone, Stamford, Thorold, and Willoughby, and the Villages of Chippewa, Clifton, Fort Erie, Thorold, and Welland.
67. The County of PEEL to consist of the Townships of Chinguacousy, Toronto, and the Gore of Toronto, and the Villages of Brampton and Streetsville.
68. The County of CARDWELL to consist of the Townships of Albion and Galedon (taken from the County of Peel), and the Townships of Adjala and Mono (taken from the County of Simcoe.)

The County of SIMCOE, divided into Two Ridings, to be called respectively the South and North Ridings:—

69. The South Riding to consist of the Townships of West Gwillimbury, Tecumseth, Inisfil, Essa, Toscorontio, Mulmur, and the Village of Bradford.
70. The North Riding to consist of the Townships of Nottawasaga, Sunnidale, Vespra, Flos, Oro, Medonte, Orillia and Matchedash, Tiny and Tay, Balaklava and Robinson, and the Towns of Barrie and Collingwood.

The

The County of VICTORIA, divided into two Ridings, to be called respectively the South and North Ridings.

71. The South Riding to consist of the Townships of Ops, Mariposa, Emily, Verulam, and the Town of Lindsay.
72. The North Riding to consist of the Townships of Anson, Bexley, Carden, Dalton, Digby, Eldon, Fenelon, Hindon, Laxton, Lutterworth, Macaulay and Draper, Sommerville, and Morrison, Muskoka, Monck and Watt (taken from the County of Simcoe), and any other surveyed Townships lying in the north of the said North Riding.

The County of PETERBOROUGH, divided into two Ridings, to be called respectively the West and East Ridings :—

73. The West Riding to consist of the Townships of South Monaghan (taken from the County of Northumberland), North Monaghan, Smith, and Ennismore, and the Town of Peterborough.
74. The East Riding to consist of the Townships of Asphodel, Belmont and Methuen, Douro, Dummer, Galway, Harvey, Minden, Stanhope and Dysart, Otonabee, and Snowden, and the Village of Ashburnham, and any surveyed Townships lying to the North of the said East Riding.

The County of HASTINGS, divided into three Ridings, to be called respectively the West, East, and North Ridings :—

75. The West Riding to consist of the Town of Belleville, the Township of Sydney, and the Village of Trenton.
76. The East Riding to consist of the Townships of Thurlow, Tyendinaga, and Hungerford.
77. The North Riding to consist of the Townships of Rawdon, Huntingdon, Madoc, Elzevir, Tudor, Mar-mora, and Lake, and the Village of Stirling, and any surveyed Townships lying to the North of the said North Riding.
78. The County of LENNOX, to consist of the Townships of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernest Town, and Amherst Island and the Village of Napanee.

79. The County of ADDINGTON to consist of the Townships of Camden, Portland, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, Canonto, Denbigh, Loughborough, and Bedford.

80. The County of FRONTENAC to consist of the Townships of Kingston, Wolfe Island, Pittsburgh and Howe Island, and Storrington.

The County of RENFREW, divided into two Ridings, to be called respectively the South and North Ridings:—

81. The South Riding to consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Adamston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, and the Villages of Arnprior and Renfrew.

82. The North Riding to consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Haggerty, Sherwood, Burns, and Richards, and any other surveyed Townships lying North-westerly of the said North Riding.

Every town and incorporated village existing at the union, not specially mentioned in this schedule, is to be taken as part of the County or Riding within which it is locally situate.

THE SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

(See the Dom. Act, 35 V., c. 13.)

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond.
Argenteuil.	Shefford.	Megantic.
Huntington.	Stanstead.	
	Town of Sherbrooke.	

THE

THE THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with lands and water power connected therewith.
2. Public harbours.
3. Lighthouses and piers, and Sable Island.
4. Steamboats, dredges, and public vessels.
5. Rivers and lake improvements.
6. Railways, and railway stocks, mortgages, and other debts due by railway companies.
7. Military roads.
8. Custom houses, post offices, and all other public buildings, except such as the Government of *Canada* appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance property.
10. Armouries, drill sheds, military clothing, and munitions of war, and lands set apart for general public purposes.

THE FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.

Lunatic Asylums.

Normal School.

Court Houses,

in

Aylmer.

Montreal.

Kamouraska.

} Lower Canada.

Law Society, Upper Canada.

Montreal Turnpike Trust.

University Permanent Fund.

Royal Institution.

Consolidated Municipal Loan Fund, Upper Canada.

Consolidated Municipal Loan Fund, Lower Canada.

Agricultural Society, Upper Canada.

Lower Canada Legislative Grant.

Quebec Fire Loan.

Temiscouata Advance Account.

Quebec Turnpike Trust.

Education—East.

Building and Jury Fund, Lower Canada.

Municipalities Fund.

Lower Canada Superior Education Income Fund.

THE

THE FIFTH SCHEDULE.

Oath of Allegiance.

I, A. B. do swear, that I will bear faithful and bear true allegiance to Her Majesty Queen Victoria.

NOTE.—*The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.*

Declaration of Qualification.

I, A. B. do declare and testify, that I am by law duly qualified to be appointed a member of the Senate of *Canada* [*or as the case may be*], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [*or seised or possessed for my own use and benefit of lands or tenements held in franc-alieu or rotture (as the case may be),*] in the Province of *Nova Scotia* [*or as the case may be*] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a member of the Senate of *Canada* [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

31 & 32 VICT., c. 29—1868.

An Act to amend the Law relating to Medical Practitioners in the Colonies.

WHEREAS by the thirty-first section of "The Medical Act," passed in the session holden in the twenty-first and twenty-second years of Her Majesty, chapter ninety, it is enacted as follows: "Every person registered under this Act shall be entitled, according to his qualification or qualifications, to practice medicine or surgery, or medicine and surgery; as the case may be, in any part of Her Majesty's Dominions, and to demand and recover in any court of law, with full costs of suit, reasonable charges for professional aid, advice, and visits, and the cost of any medicines or other medical or surgical appliances rendered or supplied by him to his patients:" And whereas it is expedient to amend the said enactment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as "The Medical Act Amendment Act, 1868." Short Title.

2. The term "colony" shall in this Act include all of Her Majesty's Possessions abroad, in which there shall exist a Legislature as hereinafter defined, except the *Channel Islands* and the *Isle of Man*. Interpretation of Act.

The term "Colonial Legislature" shall signify the authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony.

3. Every Colonial Legislature shall have full power from time to time to make laws for the purpose of enforcing the registration within its jurisdiction of persons who have been registered under "The Medical Act," anything in the said Act to the contrary notwithstanding: Provided, however, that any person who has been duly registered under "The Medical Act" shall be entitled to be registered in any colony, upon payment of the fees (if any) required for such registration, and upon proof, in such manner as the said Colonial Legislature shall direct of his registration under the said Act. Power to Colonial Legislatures to enforce registration of persons registered under the Medical Act

31 & 32 VICT., c. 37—1868.

An Act to amend the Law relating to Documentary Evidence in certain cases.

WHEREAS it is expedient to amend the law relating to evidence: Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. This Act may be cited for all purposes as "The Documentary Evidence Act, 1868."

Mode of proving certain documents.

2. *Prima facie* evidence of any proclamation, order, or regulation, issued before or after the passing of this Act by Her Majesty or by the Privy Council; also, of any proclamation, order, or regulation, issued before or after the passing of this Act by or under the authority of any such department of the Government or officer, as is mentioned in the first column of the schedule hereto, may be given in all courts of justice, and in all legal proceedings whatsoever, in all or in any of the modes hereinafter mentioned; that is to say:

- (1.) By the production of a copy of the *Gazette* purporting to contain such proclamation, order, or regulation.
- (2.) By the production of a copy of such proclamation, order, or regulation, purporting to be printed by the Government printer, or, where the question arises in a court in any *British* colony or possession, of a copy purporting to be printed under the authority of the Legislature of such *British* colony or possession.
- (3.) By the production, in the case of any proclamation, order, or regulation issued by Her Majesty or by the Privy Council, of a copy or extract purporting to be certified to be true by the clerk of the Privy Council, or by any one of the Lords or others of the Privy Council, and in the case of any proclamation, order, or regulation, issued by or under the authority of any of the said departments or officers, by the production of a copy or extract purporting to be certified to be true by the person or persons specified in the second column of the said schedule in connexion with such department or officer.

Any

Any copy or extract made in pursuance of this Act may be in print or in writing, or partly in print or partly in writing.

No proof shall be required of the handwriting or official position of any person certifying, in pursuance of this Act, to the truth of any copy of or extract from any proclamation, order, or regulation.

3. Subject to any law that may be from time to time made by the Legislature of any *British* colony or possession, this Act shall be in force in every such colony and possession. Act to be in force in colonies.

4. If any person commits any of the offences following, that is to say,— Punishment of forgery.

- (1.) Prints any copy of any proclamation, order, or regulation, which falsely purports to have been printed by the Government printer, or to be printed under the authority of the Legislature of any *British* colony or possession, or tenders in evidence any copy of any proclamation, order, or regulation, which falsely purports to have been printed as aforesaid, knowing that the same was not so printed; or,
- (2.) Forges or tenders in evidence, knowing the same to have been forged, any certificate by this Act authorized to be annexed to a copy of or extract from any proclamation, order, or regulation;

he shall be guilty of felony, and shall on conviction be liable to be sentenced to penal servitude for such term as prescribed by the Penal Servitude Act, 1864, as the least term to which an offender can be sentenced to penal servitude, or to be imprisoned for any term not exceeding two years, with or without hard labour.

5. The following words shall in this Act have the meaning hereinafter assigned to them, unless there is something in the context repugnant to such construction; (that is to say), Definition of terms.

“*British* colony and possession” shall for the purposes of this Act include the *Channel Islands*, the *Isle of Man*, and such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of *India* and all other Her Majesty’s Dominions. “British colony and possessions.”

“Legislature” shall signify any authority other than the Imperial Parliament or Her Majesty in Council competent to make laws for any colony or possession. “Legislature.”

“Privy Council” shall include Her Majesty in Council and the Lords and others of Her Majesty’s Privy Council, or any “Privy Council.”
of

of them, and any Committee of the Privy Council that is not specially named in the schedule hereto.

"Government
Printer."

"Government printer" shall mean and include the printer to Her Majesty, any printer purporting to be the printer authorized to print the Statutes, Ordinances, Acts of State, or other public Acts of the Legislature of any *British* colony or possession, or otherwise to be the Government printer of such colony or possession.

"Gazette."

"Gazette" shall include the *London Gazette*, the *Edinburgh Gazette*, and the *Dublin Gazette*, or any of such Gazettes.

Act to be cu-
mulative.

6. The provisions of this Act shall be deemed to be in addition to, and not in derogation of any powers of proving documents given by any existing Statute or existing at common law.

SCHEDULE.

COLUMN 1.	COLUMN 2.
<i>Name of Department or Officer.</i>	<i>Name of Certifying Officer.</i>
The Commissioners of the Treasury.	Any Commissioner, Secretary, or Assistant Secretary of the Treasury.
The Commissioners for executing the Office of Lord High Admiral.	Any of the Commissioners for executing the Office of Lord High Admiral or either of the Secretaries to the said Commissioners.
Secretaries of State.	Any Secretary or Under Secretary of State.
Committee of Privy Council for Trade.	Any member of the Committee of Privy Council for Trade or any Secretary or Assistant Secretary of the said Committee.
The Poor Law Board.	Any Commissioner of the Poor Law Board or any Secretary or Assistant Secretary of the said Board.

32 VICT., c. 10—1869.

An Act for authorizing the Removal of Prisoners from one Colony to another for the purposes of Punishment.

WHEREAS it is expedient to amend the law relating to the removal of prisoners from one colony to another for the purposes of punishment:

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited for all purposes as "The Colonial Prisoners Removal Act, 1869."

2. For the purposes of this Act:

Definition of terms.

The term "colony" shall not include any place within the "Colony." United Kingdom, the *Isle of Man*, or the *Channel Islands*, or within such territories as may for the time being be vested in Her Majesty by virtue of any Act of Parliament for the government of *India*, but shall include any plantation, territory, or settlement, situate elsewhere within Her Majesty's Dominions, and subject to the same local Government; and for the purposes of this Act all plantations, territories, and settlements, under a central Legislature, shall be deemed to be one colony under the same local Government.

The term "Governor" shall include the officer for the time being administering the Government of any colony. Governor.

The term "Legislative body" shall mean any House of Assembly or other body of persons having legislative powers in the colony, and where such body of persons consists of two separate Houses it shall include both Houses, and where there are local Legislative bodies as well as a central Legislative body shall mean the central Legislative body only. "Legislative body."

3. The fourth section of the Act, passed in the sixth year of the reign of his late Majesty King George the Fourth, intituled: "An Act for punishing offences committed by trans-ports kept to labour in the colonies, and better regulating the" Sect. 4 of 6 G 4, c. 60 repealed.

"the powers of justices of the peace in *New South Wales*," is hereby repealed, except so far as may be necessary for supporting or continuing any proceedings taken thereunder.

Prisoners may be removed from one colony to another for purposes of punishment.

4. Any two colonies may, with sanction of an Order of Her Majesty in Council, agree for the removal of any prisoners under sentence or order of transportation, imprisonment, or penal servitude, from one of such colonies to the other for the purpose of their undergoing in such other colony the whole or any part of their punishment, and for the return of such prisoners to the former colony, at the expiration of their punishment, or at such other period as may be agreed upon, upon such terms and subject to such conditions as may seem good to the said colonies.

The sanction of the Order of Her Majesty in Council may be obtained, in the case of a colony having a Legislative body, on an address of such body to Her Majesty, and in the case of any colony not having a Legislative body, on an address of the Governor of such colony; and such sanction shall be in force as soon as such Order in Council has been published in the colony to which it relates.

The agreement of any one colony with another shall for the purposes of this Act be testified by a writing under the hand of the Governor of such colony.

Removal of prisoners to be by warrant.

5. Where the sanction of Her Majesty has been given to any such agreement as aforesaid, relating to the removal of prisoners from one colony to another for the purpose of undergoing their punishment, any prisoners under sentence or order of transportation, imprisonment, or penal servitude, may be removed from such one colony to the other under the authority of a warrant signed by the Governor and addressed to the master of any ship, or any other person or persons; and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to such other colony, and to deliver him when there into the custody of any authority designated in such warrant or empowered by the Governor of such last mentioned colony to receive such prisoner.

Prisoner in legal custody during removal.

6. Every prisoner shall, from the time of leaving his prison in one colony to the time of his reaching his prison in the other colony, be deemed to be in the legal custody of the person or persons empowered to remove him, and to be subject to the same restraint, and, in the event of misbehaviour, to the same punishment as if he had continued in prison, and as if the person or persons empowered to remove him were the gaoler or gaolers of such prison; and if he escape or attempt to escape from such custody, such prisoner, and every

every person aiding or attempting to aid him in such escape, shall be subject to the same punishment as if such escape or attempt to escape were an escape or attempt to escape from prison.

A prison shall mean any place of confinement or any place where the prisoners undergo punishment.

Any person punishable under this section may be tried and punished either in the colony from which the prisoner is being removed, or in the colony to which he is being removed; and the law applicable to such person shall be the law of the colony in which he is tried.

7. Every prisoner shall, upon his delivery to the person having lawful authority to receive him in the colony to which he is removed, be subject within such colony to the same laws and regulations, and shall be dealt with in all respects in the same manner, as if he had been tried and received the same sentence in such colony as the sentence which has been passed on him in the colony from which he is removed.

8. And whereas from time to time divers prisoners have been removed from one of Her Majesty's colonies to another, and doubts have been entertained whether such removals were legal, and how far such prisoners could be legally dealt with in the colonies to which they have been removed, and it is expedient that such doubts should be removed: Be it enacted as follows:

The removal of any prisoner heretofore made from one colony to another by or under the authority of the Governor of either of such colonies, and any act done in relation to such removal by or under such authority, and the detention, custody, and treatment in either colony of the prisoner so removed, shall be deemed to have been as lawful and effectual for all purposes whatsoever as if this Act had been passed at the time of such removal and had been in force in respect of both the colonies referred to in this section, and such removal had been duly made in pursuance of this Act.

33 VICT., c. 14—1870.

An Act to amend the Law relating to the legal condition of Aliens and British subjects.

WHEREAS it is expedient to amend the law relating to the legal condition of aliens and *British* subjects:—
Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title.

1. This Act may be cited for all purposes as "*The Naturalization Act, 1870.*"

Status of Aliens in the United Kingdom.

(Sec. 2 defines the capacity of aliens as to property in the United Kingdom. As to this Province their capacity is governed by C.S.C., c. 8, s. 9.)

Power of naturalized aliens to divest themselves of their status in certain cases.

3. Where Her Majesty has entered into a convention with any foreign State to the effect that the subjects or citizens of that State who have been naturalized as *British* subjects may divest themselves of their status as such subjects, it shall be lawful for Her Majesty, by Order in Council, to declare that such convention has been entered into by Her Majesty ; and from and after the date of such Order in Council, any person being originally a subject or citizen of the State referred to in such Order, who has been naturalized as a *British* subject, may, within such limit of time as may be provided in the convention, make a declaration of alienage, and from and after the date of his so making such declaration, such person shall be regarded as an alien, and as a subject of the State to which he originally belonged as aforesaid.

A declaration of alienage may be made as follows ; that is to say:—If the declarant be in the United Kingdom in the presence of any Justice of the Peace ; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any court of civil or criminal jurisdiction, of any Justice of the Peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose ; if out of Her Majesty's dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

4. Any person who by reason of his having been born within the dominions of Her Majesty is a natural-born subject, but who also at the time of his birth became under the law of any foreign State a subject of such State, and is still such a subject, may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration of alienage such person shall cease to be a *British* subject.

How British-born subject may cease to be such.

Any person who is born out of Her Majesty's Dominions of a father being a *British* subject may, if of full age and not under any disability, make a declaration of alienage in manner aforesaid, and from and after the making of such declaration shall cease to be a *British* subject.

5. From and after the passing of this Act, an alien shall not be entitled to be tried by a jury *de medietate lingue*, but shall be triable in the same manner as if he were a natural-born subject.

Alien not entitled to jury *de medietate lingue*.

Expatriation.

6. Any *British* subject who has at any time before, or may at any time after the passing of this Act, when in any foreign State and not under any disability voluntarily become naturalized in such State, shall from and after the time of his so having become naturalized in such foreign State, be deemed to have ceased to be a *British* subject and be regarded as an alien: Provided,—

Capacity of British subject to renounce allegiance to Her Majesty.

1. That where any *British* subject has before the passing of this Act voluntarily become naturalized in a foreign State, and yet is desirous of remaining a *British* subject, he may, at any time within two years after the passing of this Act, make a declaration that he is desirous of remaining a *British* subject, and upon such declaration hereinafter referred to as a declaration of *British* nationality being made, and upon his taking the oath of allegiance, the declarant shall be deemed to be and to have been continually a *British* subject; with this qualification, that he shall not, when within the limits of the foreign State in which he has been naturalized, be deemed to be a *British* subject, unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

2. A declaration of *British* nationality may be made, and the oath of allegiance be taken as follows; that is to say:—
If the declarant be in the United Kingdom in the presence of a Justice of the Peace; if elsewhere in Her Majesty's Dominions in the presence of any Judge of any court of civil or criminal jurisdiction, of any Justice of the Peace, or of any other

other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose. If out of Her Majesty's Dominions, in the presence of any officer in the diplomatic or consular service of Her Majesty.

Naturalization and Resumption of British Nationality.

Certificate of
naturalization.

7. An alien who, within such limited time before making the application hereinafter mentioned as may be allowed by one of Her Majesty's Principal Secretaries of State, either by general order or on any special occasion, has resided in the United Kingdom for a term of not less than five years, and intends, when naturalized, either to reside in the United Kingdom or to serve under the Crown, may apply to one of Her Majesty's Principal Secretaries of State for a certificate of naturalization.

The applicant shall adduce in support of his application such evidence of his residence or service, and intention to reside or serve, as such Secretary of State may require. The said Secretary of State, if satisfied with the evidence adduced, shall take the case of the applicant into consideration, and may, with or without assigning any reason, give or withhold a certificate as he thinks most conducive to the public good, and no appeal shall lie from his decision, but such certificate shall not take effect until the applicant has taken the oath of allegiance.

An alien to whom a certificate of naturalization is granted shall in the United Kingdom be entitled to all political and other rights, powers and privileges, and be subject to all obligations, to which a natural-born *British* subject is entitled or subject in the United Kingdom, with this qualification, that he shall not, when within the limits of the foreign State of which he was a subject previously to obtaining his certificate of naturalization, be deemed to be a *British* subject unless he has ceased to be a subject of that State in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

The said Secretary of State may in manner aforesaid grant a special certificate of naturalization to any person with respect to whose nationality as a *British* subject a doubt exists, and he may specify in such certificate that the grant thereof is made for the purpose of quieting doubts as to the right of such person to be a *British* subject, and the grant of such special certificate shall not be deemed to be any admission that the person to whom it was granted was not previously a *British* subject.

An

An alien who has been naturalized previously to the passing of this Act may apply to the Secretary of State for a certificate of naturalization under this Act, and it shall be lawful for the said Secretary of State to grant such certificate to such naturalized alien upon the same terms and subject to the same conditions in and upon which such certificate might have been granted if such alien had not been previously naturalized in the United Kingdom.

(As to naturalization of aliens in Canada see Dom. Acts, 31 V., c. 66, 34 V., c. 22, and 36 V., c. 36.)

8. A natural-born *British* subject who has become an alien in pursuance of this Act, and is in this Act referred to as a statutory alien, may, on performing the same conditions and adducing the same evidence as is required in the case of an alien applying for a certificate of nationality, apply to one of Her Majesty's Principal Secretaries of State for a certificate hereinafter referred to as a certificate of re-admission to *British* nationality, re-admitting him to the status of a *British* subject. The said Secretary of State shall have the same discretion, as to the giving or withholding of the certificate as in the case of a certificate of naturalization, and an oath of allegiance shall in like manner be required previously to the issuing of the certificate.

Certificate of
re-admission
to *British*
nationality.

A statutory alien to whom a certificate of re-admission to *British* nationality has been granted, shall, from the date of the certificate of re-admission, but not in respect of any previous transaction, resume his position as a *British* subject; with this qualification, that within the limits of the foreign State of which he became a subject he shall not be deemed to be a *British* subject unless he has ceased to be a subject of that foreign State according to the laws thereof, or in pursuance of a treaty to that effect. The jurisdiction by this Act conferred on the Secretary of State in the United Kingdom in respect of the grant of a certificate of re-admission to *British* nationality, in the case of any statutory alien being in any *British* possession may be exercised by the Governor of such possession; and residence in such possession shall, in the case of such person, be deemed equivalent to residence in the United Kingdom.

9. The oath in this Act referred to as the oath of allegiance shall be in the form following; that is to say:—

Form of oath
of allegiance.

"I, _____ do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, her heirs and successors, according to law. So help me GOD."

National

National Status of Married Women and Infant Children.

National
status of mar-
ried women
and infant
children.

10. The following enactments shall be made with respect to the national status of women and children :—

1. A married woman shall be deemed to be a subject of the State of which her husband is for the time being a subject.

2. A widow being a natural-born *British* subject, who has become an alien by or in consequence of her marriage, shall be deemed to be a statutory alien, and may as such at any time during widowhood obtain a certificate of re-admission to *British* nationality in manner provided by this Act.

3. Where the father being a *British* subject, or the mother being a *British* subject and a widow, becomes an alien in pursuance of this Act, every child of such father or mother who during infancy has become resident in the country where the father or mother is naturalized, and has, according to the laws of such country, become naturalized therein, shall be deemed to be a subject of the State of which the father or mother has become a subject, and not a *British* subject.

4. Where the father, or the mother being a widow, has obtained a certificate of re-admission to *British* nationality, every child of such father or mother who during infancy has become resident in the *British* Dominions with such father or mother, shall be deemed to have resumed the position of a *British* subject to all intents.

5. Where the father, or the mother being a widow, has obtained a certificate of naturalization in the United Kingdom, every child of such father or mother who during infancy has become resident with such father or mother in any part of the United Kingdom, shall be deemed to be a naturalized *British* subject.

(See *Imp. Act, 35 & 36 V., c. 39, s. 3, post.*)

Supplemental Provisions.

Regulations as
to registration.

11. One of Her Majesty's Principal Secretaries of State may by regulation provide for the following matters :—

1. The form and registration of declarations of *British* nationality.

2. The form and registration of certificates of naturalization in the United Kingdom.

3. The form and registration of certificates of re-admission to *British* nationality.

4. The form and registration of declarations of alienage.

5. The registration by officers in the diplomatic or consular service of Her Majesty of the births and deaths of *British* subjects who may be born or die out of Her Majesty's Dominions, and of the marriages of persons married at any of Her Majesty's embassies or legations.

6. The transmission to the United Kingdom for the purpose of registration or safe keeping, or of being produced as evidence of any declarations or certificates made in pursuance of this Act out of the United Kingdom, or of any copies of such declarations or certificates, also of copies of entries contained in any register kept out of the United Kingdom in pursuance of or for the purpose of carrying into effect the provisions of this Act.

7. With the consent of the Treasury the imposition and application of fees in respect of any registration authorized to be made by this Act, and in respect of the making any declaration or the grant of any certificate authorized to be made or granted by this Act.

The said Secretary of State, by a further regulation, may repeal, alter or add to any regulation previously made by him in pursuance of this section. Any regulation made by the said Secretary of State in pursuance of this section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if it had been enacted in this Act, but shall not so far as respects the imposition of fees be in force in any *British* possession, and shall not, so far as respects any other matter, be in force in any *British* possession in which any Act or ordinance to the contrary of or inconsistent with any such direction may for the time being be in force.

12. The following regulations shall be made with respect to evidence under this Act :— Regulations as to evidence.

1. Any declaration authorized to be made under this Act may be proved in any legal proceeding by the production of the original declaration, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such declaration, and the production of such declaration or copy shall be evidence of the person therein named as declarant having made the same at the date in the declaration mentioned.

2. A certificate of naturalization may be proved in any legal proceeding by the production of the original certificate,
or

or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.

3. A certificate of re-admission to *British* nationality may be proved in any legal proceeding by the production of the original certificate, or of any copy thereof certified to be a true copy by one of Her Majesty's Principal Secretaries of State, or by any person authorized by regulations of one of Her Majesty's Principal Secretaries of State to give certified copies of such certificate.

4. Entries in any register authorized to be made in pursuance of this Act shall be proved by such copies and certified in such manner as may be directed by one of Her Majesty's Principal Secretaries of State, and the copies of such entries shall be evidence of any matters by this Act or by any regulation of the said Secretary of State authorized to be inserted in the register.

5. "The Documentary Evidence Act, 1868," shall apply to any regulation made by a Secretary of State in pursuance of or for the purpose of carrying into effect any of the provisions of this Act.

Miscellaneous.

Saving of
letters of
denization.

13. Nothing in this Act shall affect the grant of letters of denization by Her Majesty.

Saving as to
British ships.

14. Nothing in this Act contained shall qualify an alien to be the owner of a *British* ship.

Saving of alle-
giance prior to
expatriation.

15. Where any *British* subject has in pursuance of this Act become an alien, he shall not thereby be discharged from any liability in respect of any acts done before the date of his so becoming an alien.

Power of
colonies to
legislate with
respect to na-
turalization.

16. All laws, statutes and ordinances which may be duly made by the Legislature of any *British* possession for imparting to any person the privileges, or any of the privileges of naturalization, to be enjoyed by such person within the limits of such possession, shall within such limits have the authority of law, but shall be subject to be confirmed or disallowed by Her Majesty in the same manner, and subject to the same rules in and subject to which Her Majesty has power to confirm or disallow any other laws, statutes or ordinances in that possession.

Definition
of terms.

17. In this Act, if not inconsistent with the context or subject-matter thereof:

"Disability"

"Disability" shall mean the status of being an infant, lunatic, idiot, or married woman.

"*British possession*" shall mean any colony, plantation, island, territory or settlement within Her Majesty's Dominions, and not within the United Kingdom, and all territories and places under one Legislature are deemed to be one *British Possession* for the purposes of this Act.

"The Governor of any *British Possession*" shall include any person exercising the chief authority in such possession.

"Officer in the diplomatic service of Her Majesty" shall mean any Ambassador, Minister or Charge d'Affaires, or Secretary of Legation, or any person appointed by such Ambassador, Minister, Charge d'Affaires, or Secretary of Legation to execute any duties imposed by this Act on an officer in the diplomatic service of Her Majesty.

"Officer in the consular service of Her Majesty" shall mean and include Consul-General, Consul, Vice-Consul and Consular-Agent, and any person for the time being discharging the duties of Consul-General, Consul, Vice-Consul and Consular Agent.

Repeal of Acts mentioned in Schedule.

18. The several Acts set forth in the first and second parts of the schedule annexed hereto shall be wholly repealed, and the Acts set forth in the third part of the said schedule shall be repealed to the extent therein mentioned; provided that the repeal enacted in this Act shall not affect—

1. Any right acquired or thing done before the passing of this Act.

2. Any liability accruing before the passing of this Act.

3. Any penalty, forfeiture or other punishment incurred or to be incurred in respect of any offence committed before the passing of this Act.

4. The institution of any investigation or legal proceeding or any other remedy for ascertaining or enforcing any such liability, forfeiture or punishment as aforesaid.

SCHEDULE.

SCHEDULE.

NOTE.—Reference is made to the repeal of the “whole Act” where portions have been repealed before, in order to preclude henceforth the necessity of looking back to previous Acts.

This Schedule, so far as respects Acts prior to the reign of George the Second, other than Acts of the Irish Parliament, refers to the edition prepared under the direction of the Record Commission, intituled “The Statutes of the Realm; printed by command of His Majesty King George the Third, in pursuance of an address of the House of Commons of Great Britain. From “original records and authentic manuscripts.”

PART I.

Acts wholly repealed, other than Acts of the Irish Parliament.

TITLE.

- 7 Jas. I., c. 2. An Act that all such as are to be naturalized or restored in blood shall first receive the Sacrament of the Lord's Supper, and the oath of allegiance, and the oath of supremacy.
- 11 WILL. III., c. 6, (a.) An Act to enable His Majesty's natural-born subjects to inherit the estate of their ancestors, either lineal or collateral, notwithstanding their father or mother were aliens.
- 13 Geo. II., c. 7. An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in *America*.
- 20 Geo. II., c. 44. An Act to extend the provisions of an Act made in the thirteenth year of His present Majesty's reign, intituled “An Act for naturalizing such foreign Protestants and others therein mentioned, as are settled or shall settle in any of His Majesty's Colonies in *America*,” to other foreign Protestants who conscientiously scruple the taking of an oath.
- 13 Geo. III., c. 25. An Act to explain two Acts of Parliament, one of the thirteenth year of the reign of His late Majesty, “for naturalizing such foreign Protestants and others, as are settled or shall settle in any of His Majesty's Colonies in *America*,” and the other of the second year of the reign of His present Majesty, “for naturalizing such foreign Protestants as have served or shall serve as officers or soldiers in His Majesty's Royal American regiment or as engineers in *America*.”
- 14 Geo. III., c. 84. An Act to prevent certain inconveniences that may happen by bills of naturalization.

An

NOTE—(a.) 11 and 12 Will. III, (Raff.)

An Act to declare His Majesty's natural-born subjects inheritable to the estate of their ancestors, whether lineal or collateral, in that part of *Great Britain* called *Scotland*, notwithstanding their father or mother were aliens. ^{18 Geo. III., c. 52.}

An Act to alter and amend an Act passed in the seventh year of the reign of His Majesty King James the First, intituled "An Act that all such as are to be naturalized or restored in blood shall first receive the Sacrament of the Lord's Supper and the oath of allegiance and the oath of supremacy." ^{6 Geo. IV., c. 67.}

An Act to amend the laws relating to aliens.

^{7 and 8 Vict., c. 66.}

An Act for the naturalization of aliens.

^{10 and 11 Vict., c. 83.}

(*Part II. and Part III. give lists of the Acts of the Irish Parliament wholly or partly repealed.*)



33 & 34 VICT., c. 52—1870.

An Act for amending the Law relating to the Extradition of Criminals.

WHEREAS it is expedient to amend the law relating to the surrender to foreign States of persons accused or convicted of the commission of certain crimes within the jurisdiction of such States, and to the trial of criminals surrendered by foreign States to this country :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Preliminary.

1. This Act may be cited as "The Extradition Act, 1870." ^{Short Title.}

2. Where an arrangement has been made with any foreign State with respect to the surrender to such State of any fugitive criminals, Her Majesty may, by Order in Council, direct that this Act shall apply in the case of such foreign State. ^{Where arrangement for surrender of criminals made, Order in Council to apply Act.}

Her

Her Majesty may, by the same or any subsequent order, limit the operation of the order, and restrict the same to fugitive criminals who are in or suspected of being in the part of Her Majesty's Dominions specified in the order, and render the operation thereof subject to such conditions, exceptions and qualifications as may be deemed expedient.

Every such order shall recite or embody the terms of the arrangement, and shall not remain in force for any longer period than the arrangement.

Every such order shall be laid before both Houses of Parliament within six weeks after it is made, or, if Parliament be not then sitting, within six weeks after the then meeting of Parliament, and shall also be published in the London Gazette.

Restrictions on
surrender of
criminals.

3. The following restrictions shall be observed with respect to the surrender of fugitive criminals :

- (1.) A fugitive criminal shall not be surrendered if the offence in respect of which his surrender is demanded is one of a political character, or if he prove to the satisfaction of the Police Magistrate or the court before whom he is brought on *habeas corpus*, or to the Secretary of State, that the requisition for his surrender has in fact been made with a view to try or punish him for an offence of a political character :
- (2.) A fugitive criminal shall not be surrendered to a foreign State unless provision is made by the law of that State, or by arrangement, that the fugitive criminal shall not, until he has been restored or had an opportunity of returning to Her Majesty's Dominions, be detained or tried in that foreign State for any offence committed prior to his surrender other than the extradition crime proved by the facts on which the surrender is grounded :
- (3.) A fugitive criminal who has been accused of some offence within *English* jurisdiction, not being the offence for which his surrender is asked, or is undergoing sentence under any conviction in the United Kingdom, shall not be surrendered until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise :
- (4.) A fugitive criminal shall not be surrendered until the expiration of fifteen days from the date of his being committed to prison to await his surrender.

4. An Order in Council for applying this Act in the case of any foreign State shall not be made unless the arrangement— Provisions of arrangements for surrender.

- (1.) provides for the determination of it by either party to it after the expiration of a notice not exceeding one year; and
- (2.) is in conformity with the provisions of this Act, and in particular with the restrictions on the surrender of fugitive criminals contained in this Act.

5. When an order applying this Act in the case of any foreign State has been published in the *London Gazette*, this Act (after the date specified in the order, or if no date is specified, after the date of the publication,) shall, so long as the order remains in force, but subject to the limitations, restrictions, conditions, exceptions and qualifications, if any, contained in the order, apply in the case of such foreign State. An Order in Council shall be conclusive evidence that the arrangement therein referred to complies with the requisitions of this Act, and that this Act applies in the case of the foreign State mentioned in the order, and the validity of such order shall not be questioned in any legal proceedings whatever. Publication and effect of order.

6. Where this Act applies in the case of any foreign State, every fugitive criminal of that State who is in or suspected of being in any part of Her Majesty's Dominions, or that part which is specified in the order applying this Act (as the case may be) shall be liable to be apprehended and surrendered in manner provided by this Act, whether the crime in respect of which the surrender is sought was committed before or after the date of the order, and whether there is or is not any concurrent jurisdiction in any court of Her Majesty's Dominions over that crime. Liability of criminal to surrender.

(By Imp. Act, 36 & 37 V., c. 60, s. 2, post, it is declared that a crime committed before the date of the order includes in this section a crime committed before the passing of this Act.)

7. A requisition for the surrender of a fugitive criminal of any foreign State, who is in or suspected of being in the United Kingdom, shall be made to a Secretary of State by some person recognised by the Secretary of State as a diplomatic representative of that foreign State. A Secretary of State may, by order under his hand and seal, signify to a Police Magistrate that such requisition has been made and require him to issue his warrant for the apprehension of the fugitive criminal. Order of Secretary of State for issue of warrant in United Kingdom if crime is not of a political character.

(For interpretation of "diplomatic representative" see 36 & 37 V., c. 60, s. 7, post.)

If

If the Secretary of State is of opinion that the offence is one of a political character, he may, if he think fit, refuse to send any such order, and may also at any time, order a fugitive criminal accused or convicted of such offence to be discharged from custody.

Issue of warrant by Police Magistrate, Justice, &c.

8. A warrant for the apprehension of a fugitive criminal, whether accused or convicted of crime, who is in or suspected of being in the United Kingdom, may be issued—

- (1.) by a Police Magistrate on the receipt of the said order of the Secretary of State, and on such evidence as would in his opinion justify the issue of the warrant if the crime had been committed or the criminal convicted in *England*; and
- (2.) by a Police Magistrate or any Justice of the Peace in any part of the United Kingdom, on such information or complaint and such evidence, or after such proceedings as would in the opinion of the person issuing the warrant justify the issue of a warrant if the crime had been committed or the criminal convicted in that part of the United Kingdom in which he exercises jurisdiction.

Any person issuing a warrant under this section without an order from a Secretary of State shall forthwith send a report of the fact of such issue, together with the evidence and information or complaint or certified copies thereof to a Secretary of State, who may, if he think fit, order the warrant to be cancelled and the person who has been apprehended on the warrant to be discharged.

A fugitive criminal, when apprehended on a warrant issued without the order of a Secretary of State, shall be brought before some person having power to issue a warrant under this section who shall, by warrant, order him to be brought, and the prisoner shall accordingly be brought before a Police Magistrate.

A fugitive criminal apprehended on a warrant issued without the order of a Secretary of State shall be discharged by the Police Magistrate, unless the Police Magistrate, within such reasonable time as, with reference to the circumstances of the case, he may fix, receives from the Secretary of State an order signifying that a requisition has been made for the surrender of such criminal.

Hearing of case and evidence of political character of crime.

9. When a fugitive criminal is brought before the Police Magistrate, the Police Magistrate shall hear the case in the same manner, and have the same jurisdiction and powers, as near as may be, as if the prisoner were brought before him charged with an indictable offence committed in *England*.

The

The Police Magistrate shall receive any evidence which may be tendered to show that the crime of which the prisoner is accused or alleged to have been convicted is an offence of a political character or is not an extradition crime.

10. In the case of a fugitive criminal accused of an extradition crime, if the foreign warrant authorizing the arrest of such criminal is duly authenticated, and such evidence is produced as (subject to the provisions of this Act) would, according to the Law of *England*, justify the committal for trial of the prisoner if the crime of which he is accused had been committed in *England*, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

Committal or
discharge of
prisoner.

In the case of a fugitive criminal alleged to have been convicted of an extradition crime, if such evidence is produced as (subject to the provisions of this Act) would, according to the Law of *England*, prove that the prisoner was convicted of such crime, the Police Magistrate shall commit him to prison, but otherwise shall order him to be discharged.

If he commits such criminal to prison, he shall commit him to the Middlesex House of Detention, or to some other prison in Middlesex, there to await the warrant of a Secretary of State for his surrender, and shall forthwith send to a Secretary of State a certificate of the committal, and such report upon the case as he may think fit.

11. If the Police Magistrate commits a fugitive criminal to prison he shall inform such criminal that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *Habeas corpus*.

Surrender of
fugitive to
Foreign State
by warrant
of Secretary
of State.

Upon the expiration of the said fifteen days; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, as the case may be, or after such further period as may be allowed in either case by a Secretary of State, it shall be lawful for a Secretary of State, by warrant under his hand and seal, to order the fugitive criminal (if not delivered on the decision of the court) to be surrendered to such person as may in his opinion be duly authorized to receive the fugitive criminal by the Foreign State from which the requisition for the surrender proceeded, and such fugitive criminal shall be surrendered accordingly.

It shall be lawful for any person to whom such warrant is directed and for the person so authorized as aforesaid to receive, hold in custody, and convey within the jurisdiction of such Foreign State the criminal mentioned in the warrant;
and

and if the criminal escapes out of any custody to which he may be delivered on or in pursuance of such warrant, it shall be lawful to retake him in the same manner as any person accused of any crime against the laws of that part of Her Majesty's Dominions to which he escapes may be retaken upon an escape.

Discharge of persons apprehended if not conveyed out of United Kingdom within two months.

12. If the fugitive criminal who has been committed to prison is not surrendered and conveyed out of the United Kingdom, within two months after such committal; or, if a writ of *Habeas corpus* is issued, after the decision of the court upon the return to the writ, it shall be lawful for any judge of one of Her Majesty's Superior Courts at Westminster, upon application made to him by or on behalf of the criminal, and upon proof that reasonable notice of the intention to make such application has been given to a Secretary of State, to order the criminal to be discharged out of custody, unless sufficient cause is shown to the contrary.

Execution of warrant of Police Magistrate.

13. The warrant of the Police Magistrate issued in pursuance of this Act may be executed in any part of the United Kingdom in the same manner as if the same had been originally issued or subsequently indorsed by a Justice of the Peace, having jurisdiction in the place where the same is executed.

Depositions to be evidence, 6 & 7 Vict., c. 76.

14. Depositions or statements on oath, taken in a foreign State, and copies of such original depositions or statements, and foreign certificates of or judicial documents stating the fact of conviction may, if duly authenticated, be received in evidence in proceedings under this Act.

(By Imp. Act, 36 & 37 V., c. 60, s. 4, post, the provisions of this Act relating to depositions and statements on oath taken in a foreign State are extended to affirmations so taken.)

Authentication of depositions and warrants, 29 & 30 Vict., c. 121.

15. Foreign warrants and depositions or statements on oath, and copies thereof, and certificates of or judicial documents stating the fact of a conviction, shall be deemed duly authenticated for the purposes of this Act if authenticated in manner for the time being by law or authenticated as follows:—

- (1.) If the warrant purports to be signed by a Judge, Magistrate, or officer of the foreign State where the same was issued :
- (2.) If the depositions or statements or the copies thereof purport to be certified, under the hand of a Judge, Magistrate, or officer of the foreign State where the same were taken, to be the original depositions or statements or to be true copies thereof as the case may require ; and

(3.)

- (3.) If the certificate of or judicial document stating the fact of conviction purports to be certified by a Judge, Magistrate, or officer of the foreign State where the conviction took place; and

If in every case the warrants, depositions, statements, copies, certificates, and judicial documents (as the case may be), are authenticated by the oath of some witness or by being sealed with the official seal of the Minister of Justice, or some other Minister of State. And all courts of justice, justices, and magistrates shall take judicial notice of such official seal, and shall admit the documents so authenticated by it to be received in evidence without further proof.

(See note to Sec. 14.)

Crimes committed at Sea.

16. Where the crime in respect of which the surrender of a fugitive criminal is sought was committed on board any vessel on the high seas which comes into any port of the United Kingdom, the following provisions shall have effect:

Jurisdiction as to crimes committed at sea.

1. This Act shall be construed as if any Stipendiary Magistrate in *England* or *Ireland*, and any Sheriff or Sheriff substitute in *Scotland*, were substituted for the Police Magistrate throughout this Act, except the part relating to the execution of the warrant of the Police Magistrate:
2. The criminal may be committed to any prison to which the person committing him has power to commit persons accused of the like crime:
3. If the fugitive criminal is apprehended on a warrant issued without the order of a Secretary of State, he shall be brought before the Stipendiary Magistrate, Sheriff, or Sheriff substitute who issued the warrant, or who has jurisdiction in the port where the vessel lies, or in the place nearest to that port.

(See *Imp. Act, 36 & 37 V., c. 60, s. 6, post.*)

Fugitive Criminals in British Possessions.

17. This Act, when applied by Order in Council, shall, unless it is otherwise provided by such order, extend to every British possession in the same manner as if throughout this Act the British possession were substituted for the United Kingdom or *England*, as the case may require, but with the following modifications namely—

Proceedings as to fugitive criminals in British possessions.

(1.)

- (1.) The requisition for the surrender of a fugitive criminal who is in or suspected of being in a *British* possession may be made to the Governor of that *British* possession by any person recognized by that Governor as a Consul-General, Consul, or Vice-Consul, or, if the fugitive criminal has escaped from a colony or dependency of the foreign State on behalf of which the requisition is made, as the Governor of such colony or dependency :

(For interpretation of "Consul" and "Vice-Consul" see *Imp. Act, 36 & 37 V., c. 60, s. 7, post.*)

- (2.) No warrant of a Secretary of State shall be required, and all powers vested in or Acts authorized or required to be done under this Act by the Police Magistrate and the Secretary of State, or either of them, in relation to the surrender of a fugitive criminal, may be done by the Governor of the *British* possession alone :
- (3.) Any prison in the *British* possession may be substituted for a prison in Middlesex :
- (4.) A Judge of any court exercising in the *British* possession the like powers as the Court of Queen's Bench exercises in *England*, may exercise the power of discharging a criminal when not conveyed within two months out of such *British* possession.

Saving of laws
of British
possessions.

18. If by any law or ordinance, made before or after the passing of this Act by the legislature of any *British* possession, provision is made for carrying into effect within such possession the surrender of fugitive criminals who are in or suspected of being in such *British* possession, Her Majesty may, by the Order in Council applying this Act, in the case of any foreign State, or by any subsequent order, either

suspend the operation within any such *British* possession of this Act, or of any part thereof, so far as it relates to such foreign State, and so long as such law or ordinance continues in force there, and no longer ;

or direct that such law or ordinance, or any part thereof, shall have effect in such *British* possession, with or without modifications and alterations, as if it were part of this Act.

(*Dom. Acts 31 V., c. 94, and 33 V., c. 25, relate to the extradition of criminals from Canada to the United States.*)

General Provisions..

Criminal sur-
rendered by
foreign State
not triable for
previous crime

19. Where, in pursuance of any arrangement with a foreign State, any person accused or convicted of any crime which, if committed in *England*, would be one of the crimes described

described in the first schedule to this Act is surrendered by that foreign State, such person shall not, until he has been restored or had an opportunity of returning to such foreign State, be triable or tried for any offence committed prior to the surrender in any part of Her Majesty's Dominions other than such of the said crimes as may be proved by the facts on which the surrender is grounded.

20. The forms set forth in the second schedule to this Act, or forms as near thereto as circumstances admit, may be used in all matters to which such forms refer, and in the case of a *British* possession may be so used, *mutatis mutandis*, and when used shall be deemed to be valid and sufficient in law.

As to use of forms in second schedule.

21. Her Majesty may, by Order in Council, revoke or alter, subject to the restrictions of this Act, any Order in Council made in pursuance of this Act, and all the provisions of this Act with respect to the original order shall (so far as applicable) apply, *mutatis mutandis* to any such new order.

Revocation, &c., of Order in Council.

(Sec. 22 extended this Act to the Channel Islands and the Isle of Man.)

(Sec. 23 relates to extradition treaties with Indian native States and other Asiatic States.)

24. The testimony of any witness may be obtained in relation to any criminal matter pending in any court or tribunal in a foreign State in like manner as it may be obtained in relation to any civil matter under the Act of the session of the nineteenth and twentieth years of the reign of Her present Majesty, chapter one hundred and thirteen, intituled "*An Act to provide for taking evidence in Her Majesty's Dominions in relation to civil and commercial matters pending before foreign tribunals*;" and all the provisions of that Act shall be construed as if the term civil matter included a criminal matter, and the term cause included a proceeding against a criminal: Provided that nothing in this section shall apply in the case of any criminal matter of a political character.

Power of foreign State to obtain evidence in United Kingdom.

25. For the purposes of this Act, every colony, dependency, and constituent part of a foreign State, and every vessel of that State, shall (except where expressly mentioned as distinct in this Act) be deemed to be within the jurisdiction of and to be part of such foreign State.

Foreign State includes dependencies.

26. In this Act, unless the context otherwise requires,—

Definition of terms.

The term "*British possession*" means any colony, plantation, island, territory, or settlement within Her Majesty's Dominions,

"British possession."

Dominions, and not within the United Kingdom, the Channel Islands, and Isle of Man; and all colonies, plantations, islands, territories and settlements under one legislature, as hereinafter defined, are deemed to be one *British* possession :

"Legislature:" The term "legislature" means any person or persons who can exercise legislative authority in a *British* possession, and where there are local legislatures as well as a central legislature, means the central legislature only :

"Governor:" The term "Governor" means any person or persons administering the government of a *British* possession, and includes the governor of any part of India :

"Extradition crime:" The term "extradition crime" means a crime which, if committed in *England* or within *English* jurisdiction, would be one of the crimes described in the first schedule to this Act :

"Conviction:" The terms "conviction" and "convicted" do not include or refer to a conviction which under foreign law is a conviction for contumacy, but the term "accused person" includes a person so convicted for contumacy :

"Fugitive criminal:" The term "fugitive criminal" means any person accused or convicted of an extradition crime committed within the jurisdiction of any foreign State, who is in or suspected of being in some part of Her Majesty's Dominions; and the term "fugitive criminal of a foreign State" means a fugitive criminal or accused or convicted of an extradition crime committed within the jurisdiction of that State :

"Secretary of State:" The term "Secretary of State" means one of Her Majesty's Principal Secretaries of State :

"Police Magistrate:" The term "Police Magistrate" means a chief magistrate of the metropolitan police courts, or one of the other magistrates of the metropolitan police court in Bow street :

"Justice of the Peace:" The term "Justice of the Peace" includes in *Scotland* any Sheriff, Sheriff's substitute, or Magistrate :

"Warrant:" The term "warrant" in the case of any foreign State, includes any judicial document authorizing the arrest of a person accused or convicted of crime :

Repeal of Acts.

Repeal of Acts
in third sched-
ule.

27. The Acts specified in the third schedule to this Act are hereby repealed as to the whole of Her Majesty's Dominions; and this Act (with the exception of anything contained in it which is inconsistent with the treaties referred to in the Acts

so repealed) shall apply (as regards crimes committed either before or after the passing of this Act), in the case of the foreign States with which those treaties are made, in the same manner as if an Order in Council referring to such treaties had been made in pursuance of this Act, and as if such order had directed that every law and ordinance which is in force in any *British* possession with respect to such treaties should have effect as part of this Act.

Provided that if any proceedings for or in relation to the surrender of a fugitive criminal have been commenced under the said Acts previously to the repeal thereof, such proceedings may be completed, and the fugitive surrendered in the same manner as if this Act had not passed.

SCHEDULES.

FIRST SCHEDULE.

List of Crimes.

The following list of crimes is to be construed according to the law existing in *England* or in a *British* possession (as the case may be) at the date of the alleged crime, whether by common law or by Statute made before or after the passing of this Act:

Murder, and attempt and conspiracy to murder.

Manslaughter.

Counterfeiting and altering money and uttering counterfeit or altered money.

Forgery, counterfeiting, and altering, and uttering what is forged or counterfeited or altered.

Embezzlement and larceny.

Obtaining money or goods by false pretences.

Crimes by bankrupts against bankruptcy law.

Fraud by a bailee, banker, agent, factor, trustee, or director, or member, or public officer of any company made criminal by any Act for the time being in force:

Rape.

Rape.

Abduction.

Child stealing.

Burglary and housebreaking.

Arson.

Robbery with violence.

Threats by letter or otherwise with intent to extort.

Piracy by law of nations.

Sinking or destroying a vessel at sea, or attempting or conspiring to do so.

Assaults on board a ship on the high seas with intent to destroy life or to do grievous bodily harm.

Revolt or conspiracy to revolt by two or more persons on board a ship on the high seas against the authority of the master.

(See Imp. Act 36 & 37 V., c. 60, s. 8, post, by which it is provided that this Act shall be construed as if the crimes mentioned in the schedule to that Act were included in this schedule. Imp. Act 36 & 37 V., c. 88, (The Slave Trade Act, 1873), makes a further addition to the list of extradition offences. Sec. 27 of that Act is as follows:

27. Offences committed against this Act or the enactments with which this Act is to be construed as one, or otherwise in connection with the slave trade, whether committed on the high seas or on land, or partly on the high seas or partly on land, shall be deemed to be inserted in the first schedule to the Extradition Act, 1870, and that Act and any Act amending the same shall be construed accordingly.)

SECOND SCHEDULE. ●

Form of Order of Secretary of State to the Police Magistrate.

To the Chief Magistrate of the Metropolitan Police Courts or other Magistrate of the Metropolitan Police Court in Bow Street [or the Stipendiary Magistrate at]

Whereas in pursuance of an arrangement with , referred to in an Order of Her Majesty in Council dated the day

day of _____, a requisition has been made to me, _____, one of Her Majesty's Principal Secretaries of State, by _____, the diplomatic representative of _____, for the surrender of _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____. Now I hereby, by this my order under my hand and seal, signify to you that such requisition has been made, and require you to issue your warrant for the apprehension of such fugitive, provided that the conditions of "*The Extradition Act, 1870*," relating to the issue of such warrant, are in your judgment complied with.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this _____ day of _____ 18 ____.

Form of Warrant of Apprehension by Order of Secretary of State.

METROPOLITAN POLICE
DISTRICT [or COUNTY
or BOROUGH OF] } To all and each of the constables of
To WIT. } the metropolitan police force, [or of the
county or borough of]

WHEREAS the Right Honorable _____ one of Her Majesty's Principal Secretaries of State, by order under his hand and seal, hath signified to me that requisition hath been duly made to him for the surrender of _____, late of _____, accused [or convicted] of the commission of the crime of _____, within the jurisdiction of _____. This is therefore to command you in Her Majesty's name forthwith to apprehend the said _____ pursuant to "*The Extradition Act, 1870*," wherever he may be found in the United Kingdom or Isle of Man, and bring him before me or some other [*magistrate sitting in this court], to show cause why he should not be surrendered in pursuance of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at [*Bow street, one of the police courts of the metropolis] this _____ day of _____ 18 ____.

J. P.

*NOTE.—Alter as required.

Form of Warrant of Apprehension without Order of Secretary of State.

METROPOLITAN POLICE
DISTRICT [or COUNTY
or BOROUGH OF] } To all and each of the constables of
To WIT. } the metropolitan police force, [or of the
county or borough of]

WHEREAS it has been shown to the undersigned, one of Her Majesty's justices of the peace in and for the metropolitan police district, [or the said county or borough of _____], that _____, late of _____, is accused [or convicted] of the commission _____

mission of the crime of _____ within the jurisdiction of _____
 This is, therefore, to command you
 in Her Majesty's name forthwith to apprehend the said _____,
 and to bring him before me or some other magistrate sitting
 at this court, [or one of Her Majesty's justices of the peace
 in and for the county (or borough) of _____], to be further
 dealt with according to law, for which this shall be your
 warrant.

Given under my hand and seal at Bow Street, one of the
 police courts of the metropolis, [or _____ in the county or
 borough aforesaid], this _____ day of _____ 18 _____.

J. P.

*Form of Warrant for bringing Prisoner before the Police
 Magistrate.*

COUNTY [or BOR-] To _____, constable of the police force
 OUGH] OF _____ of _____, and to all other peace officers in the
 To Wit. _____ said county [or borough] of _____.

WHEREAS _____, late of _____, accused [or alleged to
 be convicted of] the commission of the crime of _____
 within the jurisdiction of _____, has been apprehended
 and brought before the undersigned, one of Her Majesty's
 justices of the peace in and for the said county [or borough
 of _____]. And whereas by "*The Extradition Act, 1870*,"
 he is required to be brought before the chief magistrate of
 the metropolitan police court, or one of the police magistrates
 of the metropolis sitting at Bow street, within the metropoli-
 tan police district [or the stipendiary magistrate for _____].

This is, therefore, to command you, the said constable, in
 Her Majesty's name, forthwith to take and convey the said
 _____ to the metropolitan police district [or the said
 _____], and there carry him before the said
 chief magistrate or one of the police magistrates of the metro-
 polis sitting at Bow street within the said district [or before
 a stipendiary magistrate sitting in the said _____], to
 show cause why should not be surrendered in pursuance of
 "*The Extradition Act, 1870*," and otherwise to be dealt with
 in accordance with law, for which this shall be your warrant.

Given under my hand and seal at _____, in the county
 [or borough] aforesaid, this _____ day of _____ 18 _____.

J. P.

Form

Form of Warrant of Committal.

METROPOLITAN
POLICE DISTRICT
[or THE COUNTY or
BOROUGH OF] } To' , one of the constables
To Wit. } of the metropolitan police force [or of the
police force of the county or borough of
, and to the keeper of the .

Be it remembered that on this day of , in the year of our Lord , late of , is brought before me, , the chief magistrate of the metropolitan police courts [or one of the police magistrates of the metropolis] sitting at the police court in Bow street, within the metropolitan police district, [or a stipendiary magistrate for], to show cause why he should not be surrendered in pursuance of "*The Extradition Act, 1870*," on the ground of his being accused [or convicted] of the commission of the crime of within the jurisdiction of ; and for as much as no sufficient cause has been shown to me why he should not be surrendered in pursuance of the said Act:

This is, therefore, to command you, the said constable, in Her Majesty's name, forthwith to convey and deliver the body of the said into the custody of the said keeper of the , at , and you, the said keeper, to receive the said into your custody, and him there safely to keep until he is thence delivered, pursuant to the provisions of the said Extradition Act, for which this shall be your warrant.

Given under my hand and seal at Bow street, one of the police courts of the metropolis, [or at the said], this day of 18 .

J. P.

Form of Warrant of Secretary of State for surrender of Fugitive.

To the keeper of , and to

WHEREAS , late of , accused [or convicted] of the commission of the crime of within the jurisdiction of , was delivered into the custody of you , the keeper of , by warrant dated , pursuant to "*The Extradition Act, 1870*:"

Now I do hereby, in pursuance of the said Act, order you, the said keeper, to deliver the body of the said into the custody of the said , and I command you, the said , to receive the said into your custody, and to convey him within the jurisdiction of the said , and there place him in the custody of any person or persons appointed by the said to receive him, for which this shall be your warrant.

Given under the hand and seal of the undersigned, one of Her Majesty's Principal Secretaries of State, this day of

THIRD

THIRD SCHEDULE.

Year and chapter. }	TITLE.
6 & 7, Vict., c. 75.	An Act for giving effect to a convention between Her Majesty and the King of the <i>French</i> for the apprehension of certain offenders.
6 & 7, Vict., c. 76.	An Act for giving effect to a treaty between Her Majesty and the United States of <i>America</i> for the apprehension of certain offenders.
8 & 9, Vict., c. 120.	An Act for facilitating execution of the treaties with <i>France</i> and the United States of <i>America</i> for the apprehension of certain offenders.
25 & 26, Vict., c. 78.	An Act for giving effect to a convention between Her Majesty and the King of <i>Denmark</i> for the mutual surrender of criminals.
29 & 30, Vict., c. 121.	An Act for the amendment of the law relating to treaties of extradition.

33 & 34 VICT., c. 90—1870.

An Act to regulate the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace.

WHEREAS it is expedient to make provision for the regulation of the conduct of Her Majesty's subjects during the existence of hostilities between foreign States with which Her Majesty is at peace :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

'Preliminary.

Short title of Act. **1.** This Act may be cited for all purposes as " The Foreign Enlistment Act, 1870."

Application of Act. **2.** This Act shall extend to all the dominions of Her Majesty, including the adjacent territorial waters.

3.

3. This Act shall come into operation in the United Kingdom immediately on the passing thereof, and shall be proclaimed in every *British* possession by the Governor thereof as soon as may be after he receives notice of this Act, and shall come into operation in that *British* possession on the day of such proclamation, and the time at which this Act comes into operation in any place is, as respects such place, in this Act referred to as the commencement of this Act. Commencement of Act.

Illegal Enlistment.

4. If any person, without the license of Her Majesty, being a *British* subject, within or without Her Majesty's Dominions, accepts or agrees to accept any commission or engagement in the military or naval service of any foreign State at war with any foreign State at peace with Her Majesty, and in this Act referred to as a friendly state, or whether a *British* subject or not within Her Majesty's Dominions, induces any other person to accept or agree to accept any commission or engagement in the military or naval service of any such foreign State as aforesaid,— Penalty on enlistment in service of foreign state.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

5. If any person, without the license of Her Majesty, being a *British* subject, quits or goes on board any ship with a view of quitting Her Majesty's Dominions, with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State, or, whether a *British* subject or not, within Her Majesty's Dominions, induces any other person to quit or to go on board any ship with a view of quitting Her Majesty's Dominions with the like intent,— Penalty on leaving Her Majesty's dominions with intent to serve a foreign state.

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

6. If any person induces any other person to quit Her Majesty's Dominions or to embark on any ship within Her Majesty's Dominions under a misrepresentation or false representation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State,— Penalty on embarking persons under false representations as to service.

He

He shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour :

Penalty on
taking illegal-
ly enlisted
persons on
board ship.

7. If the master or owner of any ship, without the license of Her Majesty, knowingly either takes on board, or engages to take on board, or has on board such ship within Her Majesty's Dominions any of the following persons, in this Act referred to as illegally enlisted persons; that is to say,

- (1.) Any person who, being a *British* subject within or without the dominions of Her Majesty, has, without the license of Her Majesty, accepted or agreed to accept any commission or engagement in the military or naval service of any foreign State at war with any friendly State :
- (2.) Any person, being a *British* subject, who without the license of Her Majesty, is about to quit Her Majesty's Dominions with intent to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State :
- (3.) Any person who has been induced to embark under a misrepresentation or false misrepresentation of the service in which such person is to be engaged, with the intent or in order that such person may accept or agree to accept any commission or engagement in the military or naval service of any foreign State at war with a friendly State :

Such master or owner shall be guilty of an offence against this Act, and the following consequences shall ensue, that is to say :—

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour : and
- (2.) Such ship shall be detained until the trial and conviction or acquittal of the master or owner, and until all penalties inflicted on the master or owner have been paid, or the master or owner has given security for the payment of such penalties, to the satisfaction of two justices of the peace, or other magistrate or magistrates having the authority of two justices of the peace : and
- (3.) All illegally enlisted persons shall immediately on the discovery of the offence, be taken on shore, and shall not be allowed to return to the ship.

Illegal

Illegal Shipbuilding and Illegal Expeditions.

8. If any person within Her Majesty's Dominions, without the license of Her Majesty, does any of the following acts; that is to say,—

Penalty on
illegal ship
building and
illegal expedi-
tions.

- (1.) Builds or agrees to build or causes to be built any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (2.) Issues or delivers any commission for any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (3.) Equips any ship with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State : or
- (4.) Despatches, or causes or allows to be despatched, any ship, with intent or knowledge, or having reasonable cause to believe that the same shall or will be employed in the military or naval service of any foreign State at war with any friendly State :

Such person shall be deemed to have committed an offence against this Act, and the following consequences shall ensue :

- (1.) The offender shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted ; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) The ship in respect of which any such offence is committed, and her equipment, shall be forfeited to Her Majesty ;

Provided that a person building, causing to be built, or equipping a ship in any of the cases aforesaid, in pursuance of a contract made before the commencement of such war as aforesaid, shall not be liable to any of the penalties imposed by this section in respect of such building or equipping if he satisfies the conditions following,—that is to say :

- (1.) If forthwith upon a proclamation of neutrality being issued by Her Majesty, he gives notice to the Secretary of

of State that he is so building, causing to be built, or equipping such ship, and furnishes such particulars of the contract, and of any matters relating to or done, or to be done under the contract, as may be required by the Secretary of State :

- (2.) If he gives such security, and takes or permits to be taken such other measures, if any, as the Secretary of State may prescribe for ensuring that such ship shall not be despatched, delivered, or removed without the license of Her Majesty until the termination of such war as aforesaid.

Presumption as to evidence in case of illegal ship.

9. Where any ship is built by order of or on behalf of any foreign State when at war with a friendly State, or is delivered to or to the order of such foreign State, or any person who, to the knowledge of the person building, is an agent of such foreign State, or is paid for by such foreign State or such agent, and is employed in the military or naval service of such foreign State, such ship shall, until the contrary is proved, be deemed to have been built with a view to being so employed, and the burden shall lie on the builder of such ship of proving that he did not know that the ship was intended to be so employed in the military or naval service of such foreign State.

Penalty on aiding the warlike equipment of foreign ships.

10. If any person within the dominions of Her Majesty, and without the license of Her Majesty,—

By adding to the number of the guns, or by changing those on board for other guns, or by the addition of any equipment for war, increases or augments, or procures to be increased or augmented, or is knowingly concerned in increasing or augmenting the warlike force of any ship, which, at the time of her being within the dominions of Her Majesty, was a ship in the military or naval service of any foreign State at war with any friendly State,—

Such person shall be guilty of an offence against this Act, and shall be punishable by fine and imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.

Penalty on fitting out naval or military expeditions without license.

11. If any person within the limits of Her Majesty's Dominions, and without the license of Her Majesty,—

Prepares or fits out any naval or military expedition to proceed against the dominions of any friendly State, the following consequences shall ensue :—

(1.)

- (1.) Every person engaged in such preparation or fitting out, or assisting therein, or employed in any capacity in such expedition, shall be guilty of an offence against this Act, and shall be punishable by fine or imprisonment, or either of such punishments, at the discretion of the court before which the offender is convicted; and imprisonment, if awarded, may be either with or without hard labour.
- (2.) All ships and their equipments, and all arms and munitions of war, used in or forming part of such expedition, shall be forfeited to Her Majesty.

12. Any person who aids, abets, counsels or procures the commission of any offence against this Act shall be liable to be tried and punished as a principal offender. Punishment of accessories.

13. The term of imprisonment to be awarded in respect of any offence against this Act shall not exceed two years. Limitation of terms of imprisonment.

Illegal Prize.

14. If, during the continuance of any war in which Her Majesty may be neutral, any ship, goods, or merchandise captured as prize of war within the territorial jurisdiction of Her Majesty in violation of the neutrality of this realm, or captured by any ship, which may have been built, equipped, commissioned or despatched, or the force of which may have been augmented, contrary to the provisions of this Act, are brought within the limits of Her Majesty's Dominions by the captor, or any agent of the captor, or by any person having come into possession thereof with knowledge that the same was prize of war so captured as aforesaid, it shall be lawful for the original owner of such prize, or his agent, or for any person authorized in that behalf by the Government of the foreign State to which such owner belongs, to make application to the Court of Admiralty for seizure and detention of such prize, and the court shall, on due proof of the facts, order such prize to be restored. Illegal prize brought into British ports restored.

Every such order shall be executed and carried into effect in the same manner, and subject to the same right of appeal, as in case of any order made in the exercise of the ordinary jurisdiction of such court; and, in the meantime, and until a final order has been made on such application, the court shall have power to make all such provisional and other orders as to the care or custody of such captured ship, goods, or merchandise, and (if the same be of perishable nature, or incurring risk of deterioration) for the sale thereof, and with respect to the deposit or investment of the proceeds of any such sale, as may be made by such court in the exercise of its ordinary jurisdiction.

General

General Provision.

License by
Her Majesty—
how granted.

15. For the purposes of this Act, a license by Her Majesty shall be under the sign manual of Her Majesty, or be signified by Order in Council or by proclamation of Her Majesty.

Legal Procedure.

Jurisdiction in
respect of
offences by
persons
against Act.

16. Any offence against this Act shall, for all purposes of and incidental to the trial and punishment of any person found guilty of any such offence, be deemed to have been committed either in the place in which the offence was wholly or partly committed, or in any place within Her Majesty's Dominions in which the person who committed such offence may be.

Venue in
respect of
such offences.
24 & 25 Vict.,
c. 97.

17. Any offence against this Act may be described in any indictment or other document relating to such offence, in cases where the mode of trial requires such a description, as having been committed at the place where it was wholly or partly committed, or it may be averred generally to have been committed within Her Majesty's Dominions, and the venue or local description in the margin may be that of the county, city, or place in which the trial is held.

Power to re-
move offend-
ers for trial.

18. The following authorities, that is to say, in the United Kingdom any judge of a superior court, in any other place within the jurisdiction of any *British* court of justice, such court, or, if there are more courts than one, the court having the highest criminal jurisdiction in that place, may, by warrant or instrument in the nature of a warrant in this section included in the term "warrant," direct that any offender charged with an offence against this Act shall be removed to some other place in Her Majesty's Dominions for trial in cases where it appears to the authority granting the warrant that the removal of such offender would be conducive to the interests of justice, and any prisoner so removed shall be triable at the place to which he is removed, in the same manner as if his offence had been committed at such place.

Any warrant for the purposes of this section may be addressed to the master of any ship or to any other person or persons, and the person or persons to whom such warrant is addressed shall have power to convey the prisoner therein named to any place or places named in such warrant, and to deliver him, when arrived at such place or places, into the custody of any authority designated by such warrant.

Every prisoner shall, during the time of his removal under any such warrant as aforesaid, be deemed to be in the legal custody of the person or persons empowered to remove him.

19. All proceedings for the condemnation and forfeiture of a ship, or ship and equipment, or arms and munitions of war, in pursuance of this Act, shall require the sanction of the Secretary of State or such chief executive authority as is in this Act mentioned, and shall be had in the Court of Admiralty, and not in any other court; and the Court of Admiralty shall, in addition to any power given to the court by this Act, have in respect of any ship or other matter brought before it in pursuance of this Act, all powers which it has in the case of a ship or matter brought before it in the exercise of its ordinary jurisdiction.

20. Where any offence against this Act has been committed by any person by reason whereof a ship, or ship and equipment, or arms and munitions of war, has or have become liable to forfeiture, proceedings may be instituted contemporaneously or not, as may be thought fit, against the offender in any court having jurisdiction of the offence, and against the ship, or ship and equipment, or arms and munitions of war, for the forfeiture in the Court of Admiralty; but it shall not be necessary to take proceedings against the offender because proceedings are instituted for the forfeiture, or to take proceedings for the forfeiture, because proceedings are taken against the offender.

21. The following officers, that is to say,

Regulations as to proceedings against the offender and against the ship.
Officers authorized to seize offending ships.

- (1.) Any officer of customs in the United Kingdom, subject nevertheless to any special or general instructions from the Commissioner of Customs, or any officer of the Board of Trade subject nevertheless to any special or general instructions from the Board of Trade;
- (2.) Any officer of customs or public officer in any *British Possession*, subject nevertheless to any special or general instructions from the Governor of such possession;
- (3.) Any commissioned officer on full pay in the military service of the Crown, subject nevertheless to any special or general instructions from his commanding officer;
- (4.) Any commissioned officer on full pay in the naval service of the Crown, subject nevertheless to any special or general instructions from the Admiralty or his superior officer;

may seize or detain any ship liable to be seized or detained in pursuance of this Act, and such officers are in this Act referred to as the "local authority," but nothing in this Act contained shall derogate from the power of the Court of Admiralty to direct any ship to be seized or detained by any officer by whom such court may have power under its ordinary jurisdiction to direct a ship to be seized or detained.

Powers of
officers au-
thorised to
seize ships.

22. Any officer authorized to seize or detain any ship in respect of any offence against this Act may, for the purpose of enforcing such seizure or detention, call to his aid any constable or officers of police, or any officers of Her Majesty's army or navy or marines, or any excise officers or officers of customs, or any harbor master or dock master, or any officers having authority by law to make seizures of ships; and may put on board any ship so seized or detained any one or more of such officers to take charge of the same, and to enforce the provisions of this Act; and any officer seizing or detaining any ship under this Act may use force, if necessary, for the purpose of enforcing seizure or detention; and if any person is killed or maimed by reason of his resisting such officer in the execution of his duties, or any person acting under his orders, such officer so seizing or detaining the ship, or other person, shall be freely and fully indemnified as well against the Queen's Majesty, Her heirs and successors, as against all persons so killed, maimed or hurt.

Special power
of Secretary of
State or chief
executive au-
thority to de-
tain ship.

23. If the Secretary of State or the chief executive authority is satisfied that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, such Secretary of State or chief executive authority shall have power to issue a warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant the local authority shall have power to seize and search such ship, and to detain the same until it has been either condemned or released by process of law, or in manner hereinafter mentioned.

The owner of the ship so detained, or his agent, may apply to the Court of Admiralty for its release, and the court shall as soon as possible put the matter of such seizure and detention in course of trial between the applicant and the Crown.

If the applicant establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, the ship shall be released and restored.

If the applicant fail to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or equipped, or intended to be despatched contrary to this Act, then the ship shall be detained till released by order of the Secretary of State or chief executive authority.

The court may in cases where no proceedings are pending for its condemnation release any ship detained under this section

section on the owner giving security to the satisfaction of the court that the ship shall not be employed contrary to this Act, notwithstanding that the applicant may have failed to establish to the satisfaction of the court that the ship was not and is not being built, commissioned, or intended to be despatched contrary to this Act. The Secretary of State or the chief executive authority may likewise release any ship detained under this section on the owner giving security to the satisfaction of such Secretary of State or chief executive authority that the ship shall not be employed contrary to this Act, or may release the ship without such security if the Secretary of State or chief executive authority think fit so to release the same.

If the court be of opinion that there was not reasonable and probable cause for the detention, and if no such cause appear in the course of the proceedings; the court shall have power to declare that the owner is to be indemnified by the payment of costs and damages in respect to the detention, the amount thereof to be assessed by the court, and any amount so assessed shall be payable by the Commissioners of the Treasury out of any moneys legally applicable for that purpose. The Court of Admiralty shall also have power to make a like order for the indemnity of the owner, on the application of such owner to the court, in a summary way, in cases where the ship is released by the order of the Secretary of State or the chief executive authority, before any application is made by the owner or his agent to the court for such release.

Nothing in this section contained shall affect any proceedings instituted or to be instituted for the condemnation of any ship detained under this section, where such ship is liable to forfeiture, subject to this provision, that if such ship is restored in pursuance of this section all proceedings for such condemnation shall be stayed; and where the court declares that the owner is to be indemnified by the payment of costs and damages for the detainer, all costs, charges, and expenses incurred by such owner in or about any proceedings for the condemnation of such ship shall be added to the costs and damages payable to him in respect of the detention of the ship.

Nothing in this section contained shall apply to any foreign non-commissioned ship despatched from any part of Her Majesty's Dominions after having come within them under stress of weather or in the course of a peaceful voyage, and upon which ship no fitting out or equipping of a warlike character has taken place in this country.

24. Where it is represented to any local authority, as Special power of local authority to detain ship. and such local authority believes the representation,

representation, that there is a reasonable and probable cause for believing that a ship within Her Majesty's Dominions has been or is being built, commissioned, or equipped contrary to this Act, and is about to be taken beyond the limits of such dominions, or that a ship is about to be despatched contrary to this Act, it shall be the duty of such local authority to detain such ship, and forthwith to communicate the fact of such detention to the Secretary of State or chief executive authority.

Upon the receipt of such communication the Secretary of State or chief executive authority may order the ship to be released if he thinks there is no cause for detaining her, but if satisfied that there is reasonable and probable cause for believing that such ship was built, commissioned, or equipped or intended to be despatched in contravention of this Act, he shall issue his warrant stating that there is reasonable and probable cause for believing as aforesaid, and upon such warrant being issued further proceedings shall be had as in cases where the seizure or detention has taken place on a warrant issued by the Secretary of State, without any communication from the local authority.

Where the Secretary of State or chief executive authority orders the ship to be released on the receipt of a communication from the local authority without issuing his warrant, the owner of the ship shall be indemnified by the payment of costs and damages in respect of the detention, upon application to the Court of Admiralty in a summary way in like manner as he is entitled to be indemnified where the Secretary of State having issued his warrant under this Act releases the ship before any application is made by the owner or his agent to the court for such release.

Power of Secretary of State or executive authority to grant search warrant.

25. The Secretary of State or the chief executive authority may, by warrant, empower any person to enter any dock-yard or other place within Her Majesty's Dominions and enquire as to the destination of any ship which may appear to him to be intended to be employed in the naval or military service of any foreign State at war with a friendly State, and to search such ship.

Exercise of powers of Secretary of State or chief executive authority.

26. Any powers or jurisdiction by this Act given to the Secretary of State may be exercised by him throughout the dominions of Her Majesty, and such powers and jurisdiction may also be exercised by any of the following officers, in this Act referred to as the chief executive authority, within their respective jurisdictions; that is to say:

- (1.) In *Ireland* by the Lord Lieutenant or other the chief Governor or Governors of *Ireland* for the time being, or the chief Secretary to the Lord Lieutenant :

(2.)

- (2.) In *Jersey* by the Lieutenant Governor:
- (3.) In *Guernsey*, *Alderney*, and *Sark*, and the dependent islands by the Lieutenant Governor:
- (4.) In the *Isle of Man* by the Lieutenant Governor:
- (5.) In any *British* possession by the Governor.

A copy of any warrant issued by a Secretary of State or by any officer authorised in pursuance of this Act to issue such warrant in *Ireland*, the *Channel Islands*, or the *Isle of Man*, shall be laid before Parliament.

27. An appeal may be had from any decision of a Court of Admiralty under this Act to the same tribunal and in the same manner to and in which an appeal may be had in cases within the ordinary jurisdiction of the court as a Court of Admiralty.

Appeal from Court of Admiralty.

28. Subject to the provisions of this Act providing for the award of damages in certain cases in respect of the seizure or detention of a ship by the Court of Admiralty no damages shall be payable, and no officer or local authority shall be responsible, either civilly or criminally, in respect of the seizure or detention of any ship in pursuance of this Act.

Indemnity to officers.

29. The Secretary of State shall not, nor shall the chief executive authority, be responsible in any action or other legal proceedings whatsoever for any warrant issued by him in pursuance of this Act, or be examinable as a witness, except at his own request, in any court of justice in respect of the circumstances which led to the issue of the warrant.

Indemnity to Secretary of State or chief executive authority.

Interpretation Clause.

30. In this Act, if not inconsistent with the context, the following terms have the meanings hereinafter respectively assigned to them; that is to say,—

Interpretation of terms.

“Foreign state” includes any foreign prince, colony, province, or part of any province or people, or any person or persons exercising or assuming to exercise the powers of Government in or over any foreign country, colony, province, or part of any province or people:

“Foreign State.”

“Military service” shall include military telegraphy and any other employment whatever, in or in connexion with any military operation:

“Military Service.”

“Naval service” shall, as respects a person, include service as a marine, employment as a pilot in piloting or directing

“Naval Service.”

directing the course of a ship of war or other ship, when such ship of war or other ship is being used in any military or naval operation, and any employment whatever on board a ship of war, transport, store ship, privateer, or ship under letters of marque; and, as respects a ship, include any user of a ship as a transport, store ship, privateer or ship under letters of marque:

"United Kingdom."

"United Kingdom" includes the *Isle of Man*, the *Channel Islands*, and other adjacent islands:

"British possession."

"*British Possession*" means any territory, colony, or place, being part of Her Majesty's Dominions and not part of the United Kingdom, as defined by this Act:

"The Secretary of State."

"The Secretary of State" shall mean any one of Her Majesty's principal Secretaries of State:

"Governor."

"The Governor" shall, as respects *India*, mean the Governor General or the Governor of any Presidency, and where a *British* possession consists of several constituent colonies, mean the Governor General of the whole possession, or the Governor of any of the constituent colonies, and as respects any other *British* possession it shall mean the officer for the time being administering the Government of such possession; also any person acting for or in the capacity of a Governor shall be included under the term "Governor":

"Court of Admiralty."

"Court of Admiralty" shall mean the High Court of Admiralty of *England* or *Ireland*, the Court of Session of *Scotland*, or any Vice-Admiralty Court within Her Majesty's Dominions:

"Ship."

"Ship" shall include any description of boat, vessel, floating battery, or floating craft; also any description of boat, vessel, or other craft or battery, made to move either on the surface of or under water, or sometimes on the surface of and sometimes under water:

"Building."

"Building" in relation to a ship shall include the doing any act towards or incidental to the construction of a ship, and all words having relation to building shall be construed accordingly:

"Equipping."

"Equipping" in relation to a ship shall include the furnishing a ship with any tackle, apparel, furniture, provisions, arms, munitions, or stores, or any other thing which is used in a ship for the purpose of fitting or
adapting

adapting her for the sea or for naval service; and all words relating to equipping shall be construed accordingly:

"Ship and equipment" shall include a ship and every thing in or belonging to a ship: "Ship and equipment."

"Master" shall include any person having the charge or command of a ship. "Master."

Repeal of Acts and Saving Clauses.

31. From and after the commencement of this Act, an Act passed in the fifty-ninth year of the reign of His late Majesty King George the Third; chapter sixty-nine, intituled "An Act to prevent the enlisting or engagement of His Majesty's subjects to serve in foreign service, and the fitting out or equipping, in His Majesty's Dominions, vessels for warlike purposes, without His Majesty's license," shall be repealed: Provided that such repeal shall not affect any penalty, forfeiture, or other punishment incurred or to be incurred in respect of any offence committed before this Act comes into operation, nor the institution of any investigation or legal proceeding, or any other remedy for enforcing any such penalty, forfeiture, or punishment as aforesaid. Repeal of foreign enlistment Act, 59 G. 3, c. 68.

32. Nothing in this Act contained shall subject to forfeiture any commissioned ship of any foreign State, or give to any *British* court over or in respect of any ship entitled to recognition as a commissioned ship of any foreign State any jurisdiction which it would not have had if this Act had not passed. Saving as to commissioned foreign ships.

33. Nothing in this Act contained shall extend or be construed to extend to subject to any penalty any person who enters into the military service of any prince, State, or potentate in *Asia*, with such leave or license as is for the time being required by law in the case of subjects of Her Majesty, entering into the military service of princes, States, or potentates in *Asia*. Penalties not to extend to persons entering into military service in Asia—59 G. 3, c. 68, s. 12.

33 & 34 VICT., c. 102—1870.

An Act to amend the Law relating to the taking of oaths of Allegiance on Naturalization.

33 & 34 Vict.,
c. 14.

WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under "*The Naturalization Act, 1870*:" Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Regulations as
to oath of
allegiance.

1. The power of making regulations vested in one of Her Majesty's principal Secretaries of State by "*The Naturalization Act, 1870*," shall extend to prescribing as follows:—

- (1.) The persons by whom the oaths of allegiance may be administered under that Act:
- (2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:
- (3.) The registration of such oaths:
- (4.) The persons by whom certified copies of such oaths may be given:
- (5.) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:
- (6.) The proof in any legal proceedings of such oaths:
- (7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on
making false
declaration.

2. Any person wilfully and corruptly making or subscribing any declaration under "*The Naturalization Act, 1870*," knowing

ing the same to be untrue in any material particular, shall be guilty of a misdemeanour, and be liable to imprisonment with or without hard labour, for any term not exceeding twelve months.

3. This Act shall be termed the "*Naturalization Oath Act, 1870*," and shall be construed as one with "*The Naturalization Act, 1870*," and may be cited together with that Act as the "*Naturalization Acts, 1870*." Construction and short title of Act.

34 & 35 VICT., c. 28—1871.

An Act respecting the establishment of Provinces in the Dominion of Canada.

WHEREAS doubts have been entertained respecting the powers of the Parliament of *Canada* to establish Provinces in territories admitted, or which may hereafter be admitted into the Dominion of *Canada*, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited for all purposes as "*The British North America Act, 1871*." Short title.

2. The Parliament of *Canada* may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of *Canada*, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament. Parliament of Canada may establish new Provinces and provide for the constitution, &c., thereof.

3. The Parliament of *Canada* may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of Alteration of limits of Provinces.

of such Province, upon such terms and conditions as may be agreed to by the said Legislature, and may, with the like consent, make provision respecting the effect and operation of any such increase or diminution or alteration of territory in relation to any Province affected thereby.

Parliament of Canada may legislate for any territory not included in a Province.

4. The Parliament of *Canada* may from time to time make provision for the administration, peace, order, and good government of any territory not for the time being included in any Province.

Confirmation of Acts of Parliament of Canada, 32 & 33 Vict., (Canadian) cap. 3, 33 Vict., (Canadian) cap. 3.

5. The following Acts passed by the said Parliament of *Canada*, and intituled respectively: "An Act for the temporary government of *Rupert's Land* and the North Western Territory when united with *Canada*," and "An Act to amend and continue the Act thirty-two and thirty-three Victoria, chapter three, and to establish and provide for the government of the Province of *Manitoba*," shall be and be deemed to be valid and effectual for all purposes whatsoever from the date at which they respectively received the assent, in the Queen's name, of the Governor General of the said Dominion of *Canada*.

Limitation of powers of Parliament of Canada to legislate for an established Province.

6. Except as provided by the third section of this Act, it shall not be competent for the Parliament of *Canada* to alter the provisions of the last mentioned Act of the said Parliament, in so far as it relates to the Province of *Manitoba*, or of any other Act hereafter establishing new Provinces in the said Dominion, subject always to the right of the Legislature of the Province of *Manitoba* to alter from time to time the provisions of any law respecting the qualification of electors and members of the Legislative Assembly, and to make laws respecting elections in the said Province.

35 & 36 VICT., c. 39—1872.

An Act for amending the Law in certain cases in relation to Naturalization.

WHEREAS by a Convention between Her Majesty and the *United States of America*, supplementary to the Convention of the thirteenth day of May, one thousand eight hundred and seventy, respecting naturalization, and signed at *Washington* on the twenty-third day of February, one thousand eight hundred and seventy-one, and a copy of which is contained in the schedule to this Act, provision is made in relation to the renunciation by the citizens and subjects therein mentioned of naturalization or nationality in the presence of the officers therein mentioned :

And whereas doubts are entertained whether such provisions are altogether in accordance with the Naturalization Act, 1870 : And whereas other doubts have arisen with respect to the effect of "The Naturalization Act, 1870," on the rights of women married before the passing of that Act ; and it is expedient to remove such doubts :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. This Act may be cited for all purposes as the Naturalization Act, 1872, and this Act and "The Naturalization Act, 1870," may be cited together as "The Naturalization Acts, 1870 and 1872." Short Title.

2. Any renunciation of naturalization or of nationality made in manner provided by the said supplementary Convention by the persons and under the circumstances in the said Convention in that behalf mentioned shall be valid to all intents, and shall be deemed to be authorized by the said Naturalization Act, 1870. This section shall be deemed to take effect from the date at which the said supplementary Convention took effect. Confirmation of renunciation of nationality under the Convention.

3. Nothing contained in "*The Naturalization Act, 1870*," shall deprive any married woman of any estate or interest in real or personal property to which she may have become entitled previously to the passing of that Act, or affect such estate or interest to her prejudice. Saving clause as to property of married women.

SCHEDULE.

SCHEDULE.

CONVENTION between Her Majesty and the *United States of America*, supplementary to the Convention of May 13, 1870, respecting Naturalization.

Signed at Washington, 23rd February, 1871.

[*Ratifications exchanged at Washington, May 4, 1871.*]

WHEREAS by the second article of the Convention between Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland* and the *United States of America* for regulating the citizenship of subjects and citizens of the contracting parties who have emigrated or may emigrate from the dominions of the one to those of the other party, signed at *London*, on the 13th of May, 1870, it was stipulated that the manner in which the renunciation by such subjects and citizens of their naturalization, and the resumption of their native allegiance, may be made and publicly declared, should be agreed upon by the Governments of the respective countries; Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland* and the President of the *United States of America*, for the purpose of effecting such agreement, have resolved to conclude a supplemental Convention, and have named as their plenipotentiaries, that is to say; Her Majesty the Queen of the United Kingdom of *Great Britain and Ireland*, Sir Edward Thornton, Knight Commander of the Most Honourable Order of the Bath, and Her Envoy Extraordinary and Minister Plenipotentiary to the *United States of America*, and the President of the *United States of America*, Hamilton Fish, Secretary of State; who have agreed as follows:

ARTICLE I.

Any person being originally a citizen of the *United States* who had, previously to May 13, 1870, been naturalized as a *British* subject may at any time before August 10, 1872, and any *British* subject who, at the date first aforesaid, had been naturalized as a citizen within the *United States*, may at any time before May 12, 1872, publicly declare his renunciation of such naturalization by subscribing an instrument in writing, substantially in the form hereunto appended, and designated as Annex A.

Such renunciation by an original citizen of the *United States*, of *British* nationality, shall, within the territories and jurisdiction of the *United States*, be made in duplicate, in the presence

presence of any court authorized by law for the time being to admit aliens to naturalization, or before the clerk or prothonotary of any such court; if the declarant be beyond the territories of the *United States*, it shall be made in duplicate, before any diplomatic or consular officer of the *United States*. One of such duplicates shall remain of record in the custody of the court or officer in whose presence it was made; the other shall be, without delay, transmitted to the department of State.

Such renunciation, if declared by an original *British* subject, of his acquired nationality as a citizen of the *United States*, shall, if the declarant be in the United Kingdom of *Great Britain and Ireland*, be made in duplicate, in the presence of a justice of the peace; if elsewhere in Her *Britannic Majesty's Dominions*, in triplicate, in the presence of any judge of civil or criminal jurisdiction, of any justice of the peace, or of any other officer for the time being authorized by law, in the place in which the declarant is, to administer an oath for any judicial or other legal purpose; if out of Her *Majesty's Dominions*, in triplicate, in the presence of any officer in the diplomatic or consular service of Her *Majesty*.

ARTICLE II.

The contracting parties hereby engage to communicate each to the other, from time to time, lists of the persons who, within their respective dominions and territories, or before their diplomatic and consular officers, have declared their renunciation of naturalization, with the dates and places of making such declarations, and such information as to the abode of the declarants, and the times and places of their naturalization, as they may have furnished.

ARTICLE III.

The present Convention shall be ratified by Her *Britannic Majesty*, and by the President of the *United States* by and with the advice and consent of the Senate thereof, and the ratifications shall be exchanged at *Washington* as soon as may be convenient.

In witness whereof, the respective plenipotentiaries have signed the same, and have affixed thereto respective seals.

Done at *Washington*, the twenty-third day of February, in the year of our Lord one thousand eight hundred and seventy-one.

(L.S.)
(L.S.)

EDWD. THORNTON.
HAMILTON FISH.

ANNEX

ANNEX (A.)

I, A.B., of (*insert abode*), being originally a citizen of the *United States of America* (or a *British subject*), and having become naturalized within the dominions of Her Britannic Majesty as a *British subject* (or as a *citizen within the United States of America*), do hereby renounce my naturalization as a *British subject* (or *citizen of the United States*); and declare that it is my desire to resume my nationality as a citizen of the *United States* (or *British subject*.)

(Signed,) A.B.

Made and subscribed before me in (*insert country or other subdivision, and state, province, colony, legation or consulate*), this day of 187 .

(Signed,) E.F.,

Justice of the Peace (or other title.)

(L.S.)	EDWD. THORNTON.
(L.S.)	HAMILTON FISH.

35 & 36 VICT., c. 45—1872.

An Act to carry into effect a Treaty between Her Majesty and the United States of America.

WHEREAS a treaty between Her Majesty and the *United States of America* was signed at *Washington* on the eighth day of May, one thousand eight hundred and seventy-one, and was duly ratified on the seventeenth day of June of that year, which, amongst other things, contained the articles set out in the schedule to this Act :

And whereas an Act intituled "*An Act relating to the Treaty of Washington, 1871*," has been passed by the Parliament of *Canada* for the purpose of carrying into operation the said articles ;

And whereas an Act intituled "*An Act relating to the Treaty of Washington, 1871*," has been passed by the Legislature of *Prince Edward's Island*, for the purpose of carrying into operation the said articles ;

And whereas the Congress of the *United States of America* have not as yet passed any Act for carrying into operation on the part of the *United States* the said articles ;

And whereas it is expedient to make provision by Act of Parliament for carrying into operation the said articles,

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. As soon as the law required to carry into operation, on the part of the *United States of America*, the articles set out in the schedule to this Act has been passed by the Congress of the *United States* and come into force, all Acts of Parliament and laws which operate to prevent the said articles from taking full effect, shall so far as they so operate be suspended and have no effect during the period mentioned in the article numbered thirty-three in the schedule to this Act.

Suspension of Acts at variance with articles.

(*Sec. 2 provided for the extension of the articles in the schedule to Newfoundland.*)

3. This Act may be cited as "*The Treaty of Washington Act, 1872.*" Short Title.

SCHEDULE.

SCHEDULE.

Treaty of Washington of the 8th May, 1871,
 and the foregoing Act:

That is set out in the schedule, gives to the
 United States, in common with the subjects
 of the United Kingdom, the liberty, for the term of years
 specified in Article XXII of this Treaty, of the sea fishing
 in the Gulf of St. Lawrence, Nova Scotia, and New Brunswick,
 and in the Bay of Fundy and the Strait of Bellefleur, provided that they
 do not interfere with the rights of private property, or with
 the navigation, in the use of any part of the said coasts for
 the purposes of the said Treaty.

That is also set out in the schedule, gives
 to the British subjects with respect to the fisheries on
 the coast and shores of the United States north of
 the parallel of 45° North.

That reserves the certain places reserved under the
 Treaty of 1793 between Great Britain and the
 United States, and the fishing on the 5th of June,
 1793, under that Treaty,
 and the common right of fishing
 and the privileges also for the settling
 of the said fishing.

ARTICLE XII.

That in the term of years mentioned in Article
 XI, the fish and fish of all kinds, (except
 the salmon and the herring) and if the rivers falling into them,
 and if the produce of the
 said rivers, shall be admitted into each
 of the said States or of the Dominion of Canada,
 and shall be admitted into each
 of the said States or of the Dominion of Canada.

That are set out in the schedule, pro-
 vide and prescribe the mode of proceeding
 in the said States, having regard to the privileges
 reserved to the subjects of Her Britannic
 Majesty in Articles XIX and XXI of this Treaty, the
 compensation which ought to be paid by the
 said States to the Government of Her
 Majesty in respect of the privileges accorded to the
 said States under Article XVIII.

ARTICLE XIII.

That in the term of years mentioned in Article
 XI, the subjects of Her Britannic Majesty
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33 & 34 VICT., c. 102—1870.

An Act to amend the Law relating to the taking of oaths of Allegiance on Naturalization.

33 & 34 Vict.,
c. 102.

WHEREAS it is expedient to amend the law relating to the taking of oaths of allegiance under "*The Naturalization Act, 1870*:" Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Regulations as
to oath of
allegiance.

1. The power of making regulations vested in one of Her Majesty's principal Secretaries of State by "*The Naturalization Act, 1870*," shall extend to prescribing as follows:—

- (1.) The persons by whom the oaths of allegiance may be administered under that Act:
- (2.) Whether or not such oaths are to be subscribed as well as taken, and the form in which such taking and subscription are to be attested:
- (3.) The registration of such oaths:
- (4.) The persons by whom certified copies of such oaths may be given:
- (5.) The transmission to the United Kingdom, for the purpose of registration or safe keeping or of being produced as evidence, of any oaths taken in pursuance of the said Act out of the United Kingdom, or of any copies of such oaths, also of copies of entries of such oaths contained in any register kept out of the United Kingdom in pursuance of this Act:
- (6.) The proof in any legal proceedings of such oaths:
- (7.) With the consent of the Treasury, the imposition and application of fees in respect of the administration or registration of any such oath.

The two last paragraphs in the eleventh section of the Naturalization Act, 1870, shall apply to regulations made under this Act.

Penalty on
making false
declaration.

2. Any person wilfully and corruptly making or subscribing any declaration under "*The Naturalization Act, 1870*," knowing

ing the same to be untrue in any material particular, shall be guilty of a misdemeanour, and be liable to imprisonment with or without hard labour, for any term not exceeding twelve months.

3. This Act shall be termed the "*Naturalization Oath Act, 1870*," and shall be construed as one with "*The Naturalization Act, 1870*," and may be cited together with that Act as the "*Naturalization Acts, 1870*." Construction and short title of Act.

34 & 35 VICT., c. 28—1871.

An Act respecting the establishment of Provinces in the Dominion of Canada.

WHEREAS doubts have been entertained respecting the powers of the Parliament of *Canada* to establish Provinces in territories admitted, or which may hereafter be admitted into the Dominion of *Canada*, and to provide for the representation of such Provinces in the said Parliament, and it is expedient to remove such doubts, and to vest such powers in the said Parliament :

Be it enacted, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited for all purposes as "*The British North America Act, 1871*." Short title.

2. The Parliament of *Canada* may from time to time establish new Provinces in any territories forming for the time being part of the Dominion of *Canada*, but not included in any Province thereof, and may, at the time of such establishment, make provision for the constitution and administration of any such Province, and for the passing of laws for the peace, order, and good government of such Province, and for its representation in the said Parliament. Parliament of Canada may establish new Provinces and provide for the constitution, &c., thereof.

3. The Parliament of *Canada* may from time to time, with the consent of the Legislature of any Province of the said Dominion, increase, diminish, or otherwise alter the limits of Alteration of limits of Provinces.

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